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U.S. GOVERNMENT
INFORMATION
GPO

Federal Register

6–25–10 Friday
Vol. 75 No. 122 June 25, 2010

Pages 36257–36504

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AD65

Chartering and Field of Membership for Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending its chartering and field of membership manual to update its community chartering policies. These amendments include using objective and quantifiable criteria to determine the existence of a local community and defining the term "rural district." The amendments clarify NCUA's marketing plan requirements for credit unions converting to or expanding their community charters and define the term "in danger of insolvency" for emergency merger purposes.

DATES: The rule is effective July 26, 2010.

FOR FURTHER INFORMATION CONTACT: Michael J. McKenna, Deputy General Counsel; John K. Ianno, Associate General Counsel; Frank Kressman, Staff Attorney, Office of General Counsel, or Robert Leonard, Program Officer, Office of Examination and Insurance, 1775 Duke Street, Alexandria, Virginia 22314 or telephone (703) 518–6540 or (703) 518–6396.

SUPPLEMENTARY INFORMATION:

A. Background and Summary of Final Action

In 1998, Congress passed the Credit Union Membership Access Act ("CUMAA") and reiterated its longstanding support for credit unions, noting that they "have the specif[ic] mission of meeting the credit and savings needs of consumers, especially persons of modest means." Public Law 105–219, § 2, 112 Stat. 913 (August 7, 1998). The Federal Credit Union Act ("FCU Act") grants the NCUA Board broad general rulemaking authority over Federal credit unions. 12 U.S.C. 1766(a). In passing CUMAA, Congress amended the FCU Act and specifically delegated to the Board the authority to define by regulation the meaning of a "well-defined local community" (WDLC) and rural district for Federal credit union charters. 12 U.S.C. 1759(g).

The Board continues to recognize two important characteristics of a WDLC. First, there is geographic certainty to the community's boundaries, which must be well-defined. Second, there is sufficient social and economic activity among enough community members to assure that a viable community exists. Since CUMAA, NCUA has expressed this latter requirement as "interaction and/or shared common interests." NCUA Chartering and Field of Membership Manual (Chartering Manual), Interpretive Ruling and Policy Statement (IRPS) 08–2, Chapter 2, V.A.1.

The Board has gained broad experience in determining what constitutes a WDLC by analyzing numerous applications for community charter conversions and expansions. In this process, the Board has exercised its regulatory judgment in determining whether, in a particular case, a WDLC exists. This involves applying its expertise to the question of whether a proposed area has a sufficient level of interaction and/or shared common interests to be considered a WDLC.

With the benefit of having received public comments to a proposal to amend NCUA's community chartering rules issued in May 2007, NCUA issued a substitute proposal in December 2009. 72 FR 30988 (June 5, 2007), 74 FR 68722 (December 29, 2009). Some provisions of the May 2007 proposal were incorporated into the 2009 proposal without change, while others were modified or eliminated.

NCUA received comments on the 2009 proposal from 44 commenters including 23 credit unions, 20 credit union trade associations, and 1 bank trade association. The commenters generally commended NCUA for addressing the difficult issues that are the subject of the proposal. The banking trade association opposed the proposal in general. All commenters offered some suggested revisions to the proposal.

As discussed more fully below, the following aspects of the 2009 proposal will be finalized without change: (1) The treatment of single political jurisdictions (SPJs); (2) the elimination of the narrative approach; (3) the grandfathering of previously approved WDLCs; (4) the treatment of underserved areas; (5) the ability to serve analysis and marketing plan requirements; and (6) the definition of "in danger of insolvency."

As a result of further deliberations and consideration of the public comments, NCUA is making final amendments to: (1) the criteria required for establishing a multiple political jurisdiction WDLC, and (2) the definition of "rural district." These adjustments fine tune NCUA's chartering policies to balance enabling an FCU to fulfill its mission to provide reasonably priced financial services to qualifying members with NCUA's need to comply with the statutory provisions in the FCU Act. Both adjustments will make the chartering policies more practical.

B. Overview of December 2009 Proposal and Section-By-Section Analysis

1. Well Defined Local Communities

In the proposal, NCUA noted it believed it continues to be prudent policy to consider SPJs and statistical areas, as those terms are described more fully below, as WDLCs because they meet reasonable objective and quantifiable standards. SPJs were treated the same in the 2009 proposal as in the 2007 proposal. Statistical areas, however, were treated somewhat differently in the 2009 proposal from how they were treated in the 2007 proposal. In the 2009 proposal, NCUA added an additional criterion an applicant must meet to establish that a statistical area with multiple jurisdictions is a WDLC. Specifically, that additional criterion limits a multiple jurisdiction WDLC's population to 2.5 million or less people, as discussed further below.

a. WDLCs

i. Single Political Jurisdictions

The FCU Act provides that a "community credit union" consists of "persons or organizations within a well-defined local community,

neighborhood, or rural district." 12 U.S.C. 1759(b)(3). The FCU Act expressly requires the Board to apply its regulatory expertise and define what constitutes a WDLC. 12 U.S.C. 1759(g). It has done so in the Chartering Manual, Chapter 2, Section V, Community Charter Requirements. In 2003, the Board, after issuing notice and seeking comments, issued IRPS 03–1 that stated any county, city, or smaller political jurisdiction, regardless of population size, is by definition a WDLC. 68 FR18334, 18337 (Apr. 15, 2003). An entire state is not acceptable as a WDLC. Under this definition, no documentation demonstrating that the political jurisdiction is a WDLC is required.

After many years of experience, the Board has reviewed this definition of WDLC and still finds it compelling. The Board finds that a single governmental unit below the State level is well-defined and local, consistent with the governmental system in the United States consisting of a local, State, and Federal government structure. An SPJ also has strong indicia of a community, including common interests and interaction among residents. Local governments by their nature generally must provide residents with common services and facilities, such as educational, police, fire, emergency, water, waste, and medical services. Further, an SPJ frequently has other indicia of a WDLC such as a major trade area, employment patterns, local organizations and/or a local newspaper. Such examples of commonalities are indicia that SPJs are WDLCs where residents have common interests and/or interact.

About a third of the commenters supported NCUA continuing to treat an SPJ as a presumed WDLC. The bank trade association opposed that treatment. NCUA agrees that an SPJ, less than an entire state, by its very nature has sufficient indicia of interaction to continue to be treated as a WDLC in the final rule.

ii. Statistical Areas

The Board proposed to establish a statistical definition of WDLC in cases involving multiple political jurisdictions. In that context, a geographically certain area would be considered a WDLC when the following four requirements are met: (1) The area is a recognized core based statistical area (CBSA), or in the case of a CBSA with Metropolitan Divisions, the area is a single Metropolitan Division; (2) the area contains a dominant city, county or equivalent with a majority of all jobs in the CBSA or in the metropolitan division; (3) the dominant city, county or equivalent contains at least ⅓ of the CBSA's or Metropolitan Division's total population; and (4) the area has a population of 2.5 million or less people.

The Board's experience has been that WDLCs can come in various population and geographic sizes. While the statutory language 'local community' does imply some limit, Congress has directed NCUA to establish a regulatory definition consistent with the mission of credit unions. While SPJs below the state level meet the definition of a WDLC, nothing precludes a larger area comprised of multiple political jurisdictions from also meeting the regulatory definition. There is no statutory requirement or economic rationale that compels the Board to charter only the smallest WDLC in a particular area.

The Board's experience has been that applicants have the most difficulty in preparing applications involving larger areas with multiple political jurisdictions. This is because, as the population and the geographic area increase and multiple jurisdictions are involved, it can be more difficult to demonstrate interaction and/or shared common interests. This often causes some confusion to the applicant about what evidence is required and what criteria are considered to be most significant under such circumstances.

The current chartering manual provides examples of the types of information an applicant can provide that would normally evidence interaction and/or shared common interests. These include but are not limited to: (1) Defined political jurisdictions; (2) major trade areas; (3) shared common facilities; (4) organizations within the community area; and (5) newspapers or other periodicals about the area.

These examples are helpful but the Board's experience is that very often in situations involving multiple jurisdictions, where it has determined that a WDLC exists, interaction or common interests are evidenced by a major trade area that is an economic hub, usually a dominant city, county or equivalent, containing a significant portion of the area's employment and population. This central core often acts as a nucleus drawing a sufficiently large critical mass of area residents into the core area for employment and other social activities such as entertainment, shopping, and educational pursuits. By providing jobs to residents from outside the dominant core area, it also provides income that then generates further interaction both in the hub and in outlying areas as those individuals spend their earnings for a wide variety of purposes in outlying counties where they live. This commonality through interaction and/or shared common interests in connection with an economic hub is conducive to a credit union's success and supports a finding that such an area is a local community.

The Board views evidence that an area is anchored by a dominant trade area or economic hub as a strong indication that there is sufficient interaction and/or common interests to support a finding of a WDLC capable of sustaining a credit union. This type of geographic model greatly increases the likelihood that the residents of the community manifest a "commonality of routine interaction, shared and related work experiences, interests, or activities * * *" that are essential to support a strong healthy credit union capable of providing financial services to members throughout the area. Public Law 105–219, § 2(3), 112 Stat. 913 (August 7, 1998).

The Office of Management and Budget (OMB) publishes the geographic areas its analysis indicates exhibit these important criteria. The Board is familiar with and has utilized these statistics. In over six years, the agency has approved in excess of 50 community charters involving metropolitan statistical areas (MSAs), usually involving a community based around a dominant core trade area.

The Board noted that when statistics can demonstrate the existence of such relevant characteristics it is appropriate to presume that sufficient interaction and/or common interests exist to support a viable community based credit union. In such situations, the area will meet the regulatory definition of a WDLC.

Certain areas, however, do not have one dominant economic hub, but rather may contain two or more dominant hubs. These situations diminish the persuasiveness of the evidence and make it inappropriate to automatically conclude that they qualify as WDLCs.

On December 27, 2000, OMB published Standards for Defining MSAs and micropolitan statistical areas (MicroSAs). 65 FR 82228 (December 27, 2000). The following definitions established by OMB are relevant here:

CBSA—"A statistical geographic entity consisting of the county or counties associated with at least one core (urbanized area or urban cluster) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties with the counties containing the core. Metropolitan and Micropolitan Statistical Areas are the two categories

of Core Based Statistical Areas." 65 FR 82238 (Dec. 27, 2000).

Metropolitan Division—"A county or group of counties within a Core Based Statistical Area that contains a core with a population of at least 2.5 million." 65 FR 82238 (Dec. 27, 2000). OMB recognizes that Metropolitan Divisions often function as distinct, social, economic, and cultural areas within a larger MSA. *See* OMB Bulletin NO. 07–01, December 18, 2006.

Metropolitan Statistical Area—"A Core Based Statistical Area associated with at least one urbanized area that has a population of at least 50,000. The Metropolitan Statistical Area comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county as measured through commuting." 65 FR 82238 (Dec. 27, 2000).

Micropolitan Statistical Area—"A Core Based Statistical Area associated with at least one urban cluster that has a population of at least 10,000, but less than 50,000. The Micropolitan Statistical Area comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county as measured through commuting." 65 FR 82238 (Dec. 27, 2000).

Demonstrated commuting patterns supporting a high degree of social and economic integration are a very significant factor in community chartering, particularly in situations involving large areas with multiple political jurisdictions. In a community based model, significant interaction through commuting patterns into one central area or urban core strengthens the membership of a credit union and allows a community based credit union to efficiently serve the needs of the membership throughout the area. Such data demonstrates a high degree of interaction through the major life activity of working and activities associated with employment. Large numbers of residents share common interests in the various economic and social activities contained within the core economic area.

Historically, commuting has been an uncomplicated method of demonstrating functional integration. NCUA agrees with OMB's conclusion that "Commuting to work is an easily understood measure that reflects the social and economic integration of geographic areas." 65 FR 82233 (Dec. 27, 2000). The Board also finds compelling OMB's conclusion that commuting patterns within statistical areas demonstrate a high degree of social and economic integration with the central county. OMB's threshold for qualifying a county as an outlying county eligible for inclusion in either a MSA or MicroSA is a threshold of 25% inter-county commuting. OMB also considers a multiplier effect (a standard method used in economic analysis to determine the impact of new jobs on a local economy) that each commuter would have on the economy of the county in which he or she lives and notes that a multiple of two or three generally is accepted by economic development analysts for most areas. 65 FR 82233 (Dec. 27, 2000). "Applying such a measure in the case of a county with the minimum 25 percent commuting requirement means that the incomes of at least half of the workers residing in the outlying county are connected either directly (through commuting to jobs located in the central county) or indirectly (by providing services to local residents whose jobs are in the central county) to the economy of the central county or counties of the CBSA within which the county at issue qualifies for inclusion." 65 FR 82233 (Dec. 27, 2000). OMB has pointed out that a Federal agency using OMB's statistical definitions is responsible for ensuring that the definitions are appropriate for its particular use. NCUA is confident, based on its experience, that it is using OMB's statistical definitions in an appropriate manner.

The Board continues to favor the establishment of a standard statistical definition of a WDLC. The Board believes that the application of strictly statistical rules for determining whether a CBSA is a WDLC has the advantage of minimizing ambiguity and making the application process less time consuming. In addition to finding evidence established in this manner compelling, the Board believed that the reasonableness of the conclusion is further strengthened when additional factors establishing the dominance of the core area are present.

As OMB has noted, Metropolitan Divisions often function as distinct social, economic, and cultural areas. In the Board's view, this evidence detracts from the cohesiveness of a CBSA with Metropolitan Divisions. Accordingly, under the proposal, a CBSA with Metropolitan Divisions does not meet the definition of a WDLC. Individual Metropolitan Divisions within the CBSA could qualify as a WDLC. Similarly, the Board believes that when multiple political jurisdictions are present, an overly large population can detract from the cohesiveness of a geographic area. For that reason, the Board proposed capping a multijurisdictional area at 2.5 million or less people in order to qualify as a WDLC. The Board chose that population threshold because OMB generally designates a Metropolitan Division within a CBSA that has a core of at least 2.5 million people. The Board takes that established threshold as a logical breaking point in terms of community cohesiveness with respect to a multijurisdictional area.

Also, the Board acknowledged that not all areas of the country are the same and there may be a CBSA that does not contain a sufficiently dominant core area or contains several significant core areas. Such situations also dilute the cohesiveness of a CBSA. For these reasons, the Board proposed to require that a CBSA contain a dominant core city, county, or equivalent that contains the majority of all jobs and ⅓ of the total population contained in the CBSA in order to meet the definition of a WDLC. These additional requirements were intended to assure that the core area dominates any other area within the CBSA with respect to jobs and population. Information about the current definitions of CBSAs is available at OMB's Internet site (*http://www.whitehouse.gov/omb*). Community charter applications for part of a CBSA are acceptable provided they include the dominant core city, county, or equivalent and the CBSA's population in its entirety is 2.5 million or less people.

Accordingly, the Board proposed in 2009 to establish a statistical definition of WDLC in cases involving multiple political jurisdictions. Specifically, the proposal stated that a geographically well defined area will be considered a WDLC in that context when the following four requirements are met:

- The area must be a recognized CBSA, or in the case of a CBSA with Metropolitan Divisions the area must be a single Metropolitan Division; and
- The area must contain a dominant city, county or equivalent with a majority of all jobs in the CBSA or Metropolitan Division; and
- The dominant city, county or equivalent must contain at least ⅓ of the CBSA's or Metropolitan Division's total population; and
- The area must have a population of 2.5 million or less people.

As previously mentioned, NCUA believes this more objective approach will benefit all involved by making the application and review process faster, simpler, and less labor intensive, and will provide a more certain outcome. Also, using objective criteria as the basis for granting a community charter will help ensure that NCUA makes

consistent and uniform decisions from regional office to regional office.

About a third of the commenters stated that an FCU should not have to meet all four statistical criteria to establish a WDLC in areas containing multiple political jurisdictions and believed these criteria are too restrictive and exclude too many true communities from qualifying as WDLCs. About half of these commenters suggested that satisfying two of the four criteria should be sufficient to establish a WDLC while others suggested substitute criteria. A handful of commenters suggested that other areas such as MSAs and congressional districts could also serve as presumed WDLCs. A third of the commenters opposed the 2.5 million person population cap on multiple political jurisdiction WDLCs. They thought it was too restrictive.

Upon further consideration, NCUA agrees that requiring compliance with all four of the proposed criteria is overly restrictive and beyond statutory requirements. More specifically, NCUA believes it is unnecessary to include the employment and population requirements.

NCUA is confident in and agrees with OMB's extensive scientific methodology employed in defining a CBSA and in concluding that the existence of a CBSA demonstrates a high degree of social and economic integration in a particular geographic area. Accordingly, NCUA believes that including the majority of population and one third of employment statistical criteria to establish a WDLC in areas containing multiple political jurisdictions is overly restrictive. NCUA has concluded after much deliberation that the majority of population and one third of employment criteria are unnecessary, exceed statutory requirements, and that a CBSA by definition, even without those additional criteria, is sufficient to demonstrate the requisite social and economic integration needed to establish a WDLC capable of supporting a viable credit union. NCUA still believes, however, that any portion of a CBSA chosen as the geographic area of the community must still contain the core of the CBSA and that a total population cap of 2.5 million is appropriate in a multiple political jurisdiction context to demonstrate cohesion in the community. Those are also consistent with OMB guidance. Accordingly, the final rule eliminates the majority of population and one third of employment criteria from the statistical definition of a WDLC.

2. Narrative Approach

As previously mentioned, NCUA stated in the proposal that it does not believe it is beneficial to continue the practice of permitting a community charter applicant to provide a narrative statement with documentation to support the credit union's assertion that an area containing multiple political jurisdictions meets the standards for community interaction and/or common interests to qualify as a WDLC. As noted, the narrative approach is cumbersome, difficult for credit unions to fully understand, and time consuming. Accordingly, NCUA proposed eliminating, from the community chartering process, the narrative approach and all related aspects of that procedure.

While not every area will qualify as a WDLC under the statistical approach, NCUA stated it believes the consistency of this objective approach will enhance its chartering policy, assure the strength and viability of community charters, and greatly ease the burden for any community charter applicant.

Well over half of the commenters opposed eliminating in its entirety the narrative method of establishing a WDLC. Some of those commenters supported using a narrative as supplemental evidence to the statistical criteria. Others would like FCUs to have the choice of establishing a WDLC using either the narrative or the statistical criteria. NCUA continues to believe the narrative approach should be eliminated for the reasons outlined above and is no longer available in the final rule.

3. Grandfathered WDLCs

NCUA stated in the proposal that an area previously approved by NCUA as a WDLC, prior to the effective date of any final amendments, will continue to be considered a WDLC for subsequent applicants who wish to serve that exact geographic area. After that effective date, an applicant applying for a geographic area that is not exactly the same as the previously approved WDLC must comply with the Chartering Manual's WDLC criteria then in place.

Over a third of the commenters noted their support for NCUA's decision to grandfather all previously approved WDLCs. The banking trade group opposed that position. Previously approved WDLCs were established as such under legally appropriate standards and, therefore, NCUA believes those areas should continue to be considered WDLCs as part of the final rule.

4. Rural District

In the 2009 proposal, the Board proposed to define the term "rural district" to help extend credit union services to individuals living in rural America without adequate access to reasonably priced financial services. Specifically, the NCUA Board defined a rural district as a contiguous area that has more than 50% of its population in census blocks that are designated as rural and the total population of the area does not exceed 100,000 persons, stating that these requirements will ensure that a rural district has both a small total population and a majority of its population in areas classified as rural by the United States Census Bureau.

In the 2007 proposal, the Board proposed a different definition of rural district. Specifically, the Board defined rural district as an area that is not in an MSA or MicroSA, has a population density that does not exceed 100 people per square mile, and where the total population does not exceed 100,000. That definition would have excluded the majority of the United States population that lives in and around large urban areas yet, based on census data, still include the vast majority of counties in the United States having fewer than 100,000 persons. Population density varies widely but many counties also have a density of less than 100 persons per square mile. Those requirements would have assured that an area under consideration as a rural district would have a small total population and a relatively light population density.

Over half of the commenters opposed the 2009 proposed definition of rural district primarily because they believe the 100,000 person population cap is too small. Some commenters stated the 100,000 person limit is too small to sustain a viable FCU considering the lack of economies of scale and the fact that community chartered credit unions generally have a lower penetration rate than other kinds of credit union charters. A few commenters noted that many truly rural areas contain a small hub city which when included in the area would exceed the 100,000 person population limit. Some commenters stated that if NCUA chooses to impose a population limit, then it should be higher.

NCUA has also received comment that it is more difficult for an FCU to reach and attract members from individuals living in large rural areas with widely disbursed populations. Those members are often more expensive to serve than members in a smaller geographic area with a higher

population concentration. In addition, the penetration rate of community charters is significantly less than single or multiple common bond charters and, therefore, a higher population limit is necessary to ensure economic viability. Accordingly, NCUA believes it is warranted to increase the population limit to 200,000 people. This will help ensure the rural district criteria are realistic and that an FCU can be viable in serving a rural district given the economic realities of an FCU's cost to serve rural members. Also, NCUA wishes to clarify that in defining a rural district, NCUA recognizes four types of affinity on which a rural district can be based—persons who live in, worship in, attend school in, or work in the rural district. Businesses and other legal entities within the rural district may also qualify for membership.

NCUA believes the creation of rural districts will play a significant role in allowing FCUs to provide affordable financial services to individuals in rural communities that otherwise would not have such services. To that end and to provide as much flexibility as reasonably possible, NCUA is expanding the definition of rural district so that an FCU can establish a rural district by satisfying *either* the definition of rural district proposed in the 2009 proposal, with the modified population limit, *or* a definition similar to that proposed in the 2007 proposal, also with the modified population limit. Specifically, NCUA defines rural district in the final rule as:

- A district that has well-defined, contiguous geographic boundaries;
- More than 50% of the district's population resides in census blocks or other geographic areas that are designated as rural by the United States Census Bureau; and
- The total population of the district does not exceed 200,000 people; *or*
- A district that has well-defined, contiguous geographic boundaries;
- The district does not have a population density in excess of 100 people per square mile; and
- The total population of the district does not exceed 200,000 people.

5. Underserved Communities

In December 2008, NCUA adopted a final rule modifying its Chartering Manual to update and clarify four aspects of the process and criteria for approving credit union service to underserved areas. 73 FR 73392 (Dec. 2, 2008). First, the rule clarified that an underserved area must independently qualify as a WDLC. Second, it made explicit that the Community Development Financial Institution Fund's "geographic units" of measure and 85 percent population threshold, when applicable, must be used to determine whether a proposed area meets the "criteria of economic distress" incorporated by reference in the FCU Act. Third, it updated the documentation requirements for demonstrating that a proposed area has "significant unmet needs" among a range of specified financial products and services. Finally, the rule adopted a "concentration of facilities" methodology to implement the statutory requirement that a proposed area must be "underserved by other depository institutions." 73 FR 73392, 73396 (Dec. 2, 2008).

Using data supplied by NCUA, the "concentration of facilities" methodology compares the ratio of depository institution facilities to the population within a proposed area's "non-distressed" portions against the same facilities-to-population ratio in the proposed area as a whole. When that ratio in the area as a whole shows more persons per facility than does the same ratio in the "non-distressed" portions, the rule deems the area to be "underserved by other depository institutions." There is a perception that this methodology measures only the presence of financial institutions not the variety of services and, therefore, it may be an obstacle to establishing that an area which clearly meets the "economic distress criteria" also is "underserved by other depository institutions" as required for the area to qualify as underserved. For example, there could be a distressed area that contains more financial institutions than a non-distressed area, but the products and services offered by the financial institutions in the distressed area might focus on businesses and high-income individuals. In this instance, the distressed area would not qualify as underserved despite truly lacking affordable financial services for low to moderate income individuals.

In the 2009 proposal, the NCUA Board solicited public comment on alternative methodologies, based on publicly accessible data about both credit unions and other depository institutions, for implementing the Act's "underserved by other depository institutions" criterion.

A quarter of the commenters opposed NCUA's current methodology for determining if an area is underserved. About the same number of commenters stated that an underserved area should not have to satisfy the same criteria as a WDLC. Unfortunately, commenters did not articulate with any semblance of consensus a realistic alternate methodology. Accordingly, NCUA will continue with the current methodology until a better option is devised.

6. Ability To Serve and Marketing Plans

Establishing that an area is a WDLC is only the first of two criteria an FCU must satisfy to obtain a community charter or community charter expansion. The second criterion, after establishing the existence of a WDLC, is for an FCU to demonstrate it is able to serve the WDLC. This applies to all WDLCs including SPJs, statistical areas, and grandfathered communities. Typically, an FCU can demonstrate its ability to serve an established WDLC in its marketing plan.

Under the current Chartering Manual, a credit union converting to or expanding its community charter must provide, "a marketing plan that addresses how the community will be served." In the 2009 proposal, the Board clarified NCUA's marketing plan requirement to provide credit unions with additional guidance on NCUA's expectations. NCUA proposed that a meaningful marketing plan must demonstrate, in detail:

- How the credit union will implement its business plan to serve the entire community;
- The unique needs of the various demographic groups in the proposed community;
- How the credit union will market to each group, particularly underserved groups;
- Which community-based organizations the credit union will target in its outreach efforts;
- The credit union's marketing budget projections dedicating greater resources to reaching new members; and
- The credit union's timetable for implementation, not just a calendar of events.

Additionally, the Board proposed that the appropriate regional office will follow-up with an FCU every year for three years after the FCU has been granted a new or expanded community charter, and at any other intervals NCUA believes appropriate, to determine if the FCU is satisfying the terms of its marketing and business plans. An FCU failing to satisfy those terms would be subject to supervisory action.

Almost two thirds of the commenters objected to NCUA reviewing an FCU's compliance with the terms of its marketing plan after the FCU has been granted a new or expanded community charter. Most of those commenters stated that as economic and other conditions change over time an FCU must make adjustments to its plan. They

indicated a plan must be fluid and not rigid and that FCUs should be afforded this flexibility. Over a quarter of commenters indicated that NCUA should provide more information as to how NCUA will determine if an FCU is satisfying the terms of its marketing plan and what supervisory action could be taken if NCUA determines an FCU is not doing so. NCUA fully recognizes the need for flexibility in this context. An FCU must adapt to changing economic circumstances and it is reasonable for its marketing plan to evolve accordingly. It was not NCUA's intent in the 2009 proposal to suggest otherwise. Accordingly, this aspect of the 2009 proposal remains unchanged in the final rule, but NCUA's stresses plan rigidity is not its goal. NCUA simply wants to make certain an FCU that is granted a community charter makes a continuing good faith effort to serve that community as it indicated it would in its marketing plan. NCUA did not specify exactly what kinds of supervisory action might be taken for failure of an FCU to comply with its marketing plan because those decisions are best left to a case-by-case determination depending on the nature of the circumstances. In any event, NCUA intends to provide an FCU with flexibility to comply with or reasonably alter its marketing plan as dictated by circumstances.

7. Emergency Mergers

Under the emergency merger provision of section 205(h) of the Act, the NCUA Board may allow a credit union that is either insolvent or in danger of insolvency to merge with another credit union if the NCUA Board finds that an emergency requiring expeditious action exists, no other reasonable alternatives are available, and the action is in the public interest. 12 U.S.C. 1785(h). The Board may approve an emergency merger without regard to common bond or other legal constraints, such as obtaining the approval of the members of the merging credit union to the merger.

NCUA must first determine that a credit union is either insolvent or in danger of insolvency before it makes the additional findings that an emergency exists, other alternatives are not reasonably available, and that the public interest would be served by the merger. The statute, however, does not define when a credit union is "in danger of insolvency." In the 2009 proposal, NCUA adopted an objective standard to aid it in making the "in danger of insolvency" determination and provide certainty and consistency in how NCUA interprets the standard. Specifically, NCUA proposed that a credit union is in danger of insolvency if it falls into one or more of the following three categories:

1. The credit union's net worth is declining at a rate that will render it insolvent within 24 months. In NCUA's experience with troubled credit unions, the trend line to zero net worth often worsens once a credit union actually approaches zero net worth. It is more difficult for NCUA to keep the costs to the National Credit Union Share Insurance Fund (NCUSIF) low when a credit union is near, or below, zero net worth.[1]

2. The credit union's net worth is declining at a rate that will take it under two percent (2%) net worth within 12 months. A credit union with a net worth ratio of less than two percent (2%) falls into the PCA category of "critically undercapitalized." 12 U.S.C. 1790d(c)(1)(E); 12 CFR 702.102(a)(5). Congress, in adding the PCA mandates to the Act, created a presumption that a critically undercapitalized credit union should be liquidated or conserved if its financial condition does not improve within a short period. 12 U.S.C. 1790d(i); 12 CFR 702.204(c).

3. The credit union's net worth, as self-reported on its Call Report, is significantly undercapitalized, and NCUA determines that there is no reasonable prospect of the credit union becoming adequately capitalized in the succeeding 36 months. A credit union with a net worth ratio between two percent (2%) or more but less than four percent (4%) falls into the PCA category of "significantly undercapitalized." 12 U.S.C. 1790d(c)(1)(D); 12 CFR 702.102(a)(4). A credit union with a net worth ratio of six percent (6%) falls into the PCA category of "adequately capitalized." 12 U.S.C. 1709d(c)(1)(B); 12 CFR 702.102(a)(2).

Section 702.203(c) of NCUA's PCA regulation states:

> Discretionary conservatorship or liquidation if no prospect of becoming "adequately capitalized." Notwithstanding any other actions required or permitted to be taken under this section, when a credit union becomes "significantly undercapitalized" * * *, the NCUA Board may place the credit union into conservatorship pursuant to 12 U.S.C. 1786(h)(1)(F), or into liquidation pursuant to 12 U.S.C. 1787(a)(3)(A)(i), provided that the credit union has no reasonable prospect of becoming "adequately capitalized."

12 CFR 702.203(c). An example of no reasonable prospect of becoming adequately capitalized would be a credit union's inability, after working with NCUA, to demonstrate how it would restore net worth to this level. This could include the credit union's failure, after working with NCUA, and considering both possible increases in retained earnings and decreases in assets, to develop an acceptable Net Worth Restoration Plan (NWRP). It could also include the credit union's failure, after working with NCUA, to materially comply with an approved NWRP. In either case, NCUA must document that the credit union is unable to become adequately capitalized within a 36-month timeframe.

A major credit union trade association and the banking trade association supported NCUA's definition of "in danger of insolvency" as proposed. Another major credit union trade association opposed it stating that it gave NCUA latitude to conduct an emergency merger if an FCU is significantly undercapitalized regardless of other supervisory issues that might suggest a merger is not necessary. NCUA continues to believe the proposed definition is reasonable and balanced and serves the public interest. The definition lends certainty to how NCUA will determine that an FCU is in danger of insolvency. Some commenters want NCUA to make the determination earlier in the process when the distressed FCU is still an attractive merger partner and others want NCUA to wait longer. All commenters are reminded that, in either event, NCUA is bound by statutory limits on non-emergency mergers of credit unions with dissimilar charters. The proposed definition is finalized without change.

8. Delegations of Processing Authority

Although NCUA did not ask for comments in this regard, a few commenters suggested NCUA's regional offices should be delegated authority to process to completion any community related FOM application without input from the Board or concurrence of other NCUA offices. NCUA agrees this would expedite processing community charter applications and will review its procedures.

C. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to

[1] Under NCUA's system of prompt corrective action (PCA), as a credit union's net worth declines below minimum requirements, the credit union faces progressively more stringent safeguards. The goal is to resolve net worth deficiencies promptly, before they become more serious, and in any event before they cause losses to the NCUSIF. The PCA statute sets forth NCUA's duty to take prompt corrective action to resolve the problems of troubled credit unions to avoid or minimize loss to the NCUSIF. S. Rpt. No. 193, 105th Cong., 2d Sess. 12 (1998); 12 U.S.C. 1790d; 12 CFR part 702.

describe any significant economic impact a rule may have on a substantial number of small entities (primarily those under ten million dollars in assets). This rule will not have a significant economic impact on a substantial number of small credit unions, and therefore, no regulatory flexibility analysis is required.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, Public Law 104–121, provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Information and Regulatory Affairs, an office within OMB, is currently reviewing this rule, and NCUA anticipates it will determine that, for purposes of SBREFA, this is not a major rule.

Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OMB control number assigned to § 701.1 is 3133–0015, and to the forms included in Appendix D is 3133–0116. NCUA has determined that the amendments will not increase paperwork requirements and a paperwork reduction analysis is not required.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This final rule will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order because it only applies to FCUs.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

NCUA has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on June 17, 2010

Mary Rupp,

Secretary of the Board.

■ For the reasons discussed above, NCUA amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601, *et seq.,* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 12 U.S.C. 4311–4312.

■ 2. Section 701.1 is revised to read as follows:

§ 701.1 Federal credit union chartering, field of membership modifications, and conversions.

National Credit Union Administration policies concerning chartering, field of membership modifications, and conversions, also known as the Chartering and Field of Membership Manual, are set forth in appendix B to this part and are available on-line at *http://www.ncua.gov.*

■ 3. The first paragraph of Section II.D.2. of Chapter 2 of appendix B to part 701 is revised to read as follows:

Appendix B to Part 701—Chartering and Field of Membership Manual

* * * * *

II.D.2—Emergency Mergers

An emergency merger may be approved by NCUA without regard to common bond or other legal constraints. An emergency merger involves NCUA's direct intervention and approval. The credit union to be merged must either be insolvent or in danger of insolvency, as defined in the Glossary, and NCUA must determine that:

- An emergency requiring expeditious action exists;
- Other alternatives are not reasonably available; and
- The public interest would best be served by approving the merger.

* * * * *

■ 4. The first paragraph of Section III.D.2. of Chapter 2 of appendix B to part 701 is revised to read as follows:

III.D.2—Emergency Mergers

An emergency merger may be approved by NCUA without regard to common bond or other legal constraints. An emergency merger involves NCUA's direct intervention and approval. The credit union to be merged must either be insolvent or in danger of insolvency, as defined in the Glossary, and NCUA must determine that:

- An emergency requiring expeditious action exists;
- Other alternatives are not reasonably available; and
- The public interest would best be served by approving the merger.

* * * * *

■ 5. The first paragraph of Section IV.D.3. of Chapter 2 of appendix B to part 701 is revised to read as follows:

IV.D.3—Emergency Mergers

An emergency merger may be approved by NCUA without regard to common bond or other legal constraints. An emergency merger involves NCUA's direct intervention and approval. The credit union to be merged must either be insolvent or in danger of insolvency, as defined in the Glossary, and NCUA must determine that:

- An emergency requiring expeditious action exists;
- Other alternatives are not reasonably available; and
- The public interest would best be served by approving the merger.

* * * * *

■ 6. Section V.A. of Chapter 2 of appendix B to part 701 is revised to read as follows:

Chapter 2

V.A.1—General

There are two types of community charters. One is based on a single, geographically well-defined local community or neighborhood; the other is a rural district. More than one credit union may serve the same community.

NCUA recognizes four types of affinity on which both a community charter and a rural district can be based—persons who live in, worship in, attend school in, or work in the community or rural district. Businesses and other legal entities within the community boundaries or rural district may also qualify for membership.

NCUA has established the following requirements for community charters:

- The geographic area's boundaries must be clearly defined; and
- The area is a well-defined local community or a rural district.

V.A.2—Definition of Well-Defined Local Community and Rural District

In addition to the documentation requirements in Chapter 1 to charter a credit union, a community credit union applicant must provide additional documentation addressing the proposed area to be served and community service policies.

An applicant has the burden of demonstrating to NCUA that the proposed community area meets the statutory requirements of being: (1) well-defined, and (2) a local community or rural district.

"Well-defined" means the proposed area has specific geographic boundaries. Geographic boundaries may include a city, township, county (single, multiple, or portions of a county) or their political equivalent, school districts, or a clearly identifiable neighborhood. Although congressional districts and state boundaries are well-defined areas, they do not meet the requirement that the proposed area be a local community or rural district.

The well-defined local community requirement is met if:

• Single Political Jurisdiction—The area to be served is in a recognized single political jurisdiction, *i.e.,* a city, county, or their political equivalent, or any contiguous portion thereof.

• Statistical Area—

• The area is a designated Core Based Statistical Area (CBSA) or allowing part thereof, or in the case of a CBSA with Metropolitan Divisions, the area is a Metropolitan Division or part thereof; and

• The CBSA or Metropolitan Division must have a population of 2.5 million or less people.

The rural district requirement is met if:

• Rural District—

• The district has well-defined, contiguous geographic boundaries;

• More than 50% of the district's population resides in census blocks or other geographic areas that are designated as rural by the United States Census Bureau; and

• The total population of the district does not exceed 200,000 people; *or*

• The district has well-defined, contiguous geographic boundaries;

• The district does not have a population density in excess of 100 people per square mile; and

• The total population of the district does not exceed 200,000 people.

The affinities that apply to rural districts are the same as those that apply to well defined local communities. The OMB definitions of CBSA and Metropolitan Division may be found at 65 FR82238 (Dec. 27, 2000). They are incorporated herein by reference. Access to these definitions is available through the main page of the **Federal Register** Web site at *http://www.gpoaccess.gov/fr/index.html* and on NCUA's Web site at *http://www.ncua.gov.*

The requirements in Chapter 2, Sections V.A.4 through V.G. also apply to a credit union that serves a rural district.

V.A.3—Previously Approved Communities

If prior to July 26, 2010 NCUA has determined that a specific geographic area is a well defined local community, then a new applicant need not reestablish that fact as part of its application to serve the exact area. The new applicant must, however, note NCUA's previous determination as part of its overall application. An applicant applying for an area after that date that is not exactly the same as the previously approved well defined local community must comply with the current criteria in place for determining a well defined local community.

V.A.4—Business Plan Requirements for a Community Credit Union

A community credit union is frequently more susceptible to competition from other local financial institutions and generally does not have substantial support from any single sponsoring company or association. As a result, a community credit union will often encounter financial and operational factors that differ from an occupational or associational charter. Its diverse membership may require special marketing programs targeted to different segments of the community. For example, the lack of payroll deduction creates special challenges in the development and promotion of savings programs and in the collection of loans. Accordingly, to support an application for a community charter, an applicant Federal credit union must develop a business plan incorporating the following data:

• Pro forma financial statements for a minimum of 24 months after the proposed conversion, including the underlying assumptions and rationale for projected member, share, loan, and asset growth;

• Anticipated financial impact on the credit union, including the need for additional employees and fixed assets, and the associated costs;

• A description of the current and proposed office/branch structure, including a general description of the location(s); parking availability, public transportation availability, drive-through service, lobby capacity, or any other service feature illustrating community access;

• A marketing plan addressing how the community will be served for the 24-month period after the proposed conversion to a community charter, including detailing: how the credit union will implement its business plan; the unique needs of the various demographic groups in the proposed community; how the credit union will market to each group, particularly underserved groups; which community-based organizations the credit union will target in its outreach efforts; the credit union's marketing budget projections dedicating greater resources to reaching new members; and the credit union's timetable for implementation, not just a calendar of events;

• Details, terms and conditions of the credit union's financial products, programs, and services to be provided to the entire community; and

• Maps showing the current and proposed service facilities, ATMs, political boundaries, major roads, and other pertinent information.

An existing Federal credit union may apply to convert to a community charter. Groups currently in the credit union's field of membership, but outside the new community credit union's boundaries, may not be included in the new community charter. Therefore, the credit union must notify groups that will be removed from the field of membership as a result of the conversion. Members of record can continue to be served.

Before approval of an application to convert to a community credit union, NCUA must be satisfied that the credit union will be viable and capable of providing services to its members.

Community credit unions will be expected to regularly review and to follow, to the fullest extent economically possible, the marketing and business plans submitted with their applications. Additionally, NCUA will follow-up with an FCU every year for three years after the FCU has been granted a new or expanded community charter, and at any other intervals NCUA believes appropriate, to determine if the FCU is satisfying the terms of its marketing and business plans. An FCU failing to satisfy those terms will be subject to supervisory action. As part of this review process, the regional office will report to the NCUA Board instances where an FCU is failing to satisfy the terms of its marketing and business plan and indicate what supervisory actions the region intends to take.

V.A.5—Community Boundaries

The geographic boundaries of a community Federal credit union are the areas defined in its charter. The boundaries can usually be defined using political borders, streets, rivers, railroad tracks, or other static geographical feature.

A community that is a recognized legal entity may be stated in the field of membership—for example, "Gus Township, Texas," "Isabella City, Georgia," or "Fairfax County, Virginia."

A community that is a recognized CBSA must state in the field of membership the political jurisdiction(s) that comprise the CBSA.

V.A.6—Special Community Charters

A community field of membership may include persons who work or attend school in a particular industrial park, shopping mall, office complex, or similar development. The proposed field of membership must have clearly defined geographic boundaries.

V.A.7—Sample Community Fields of Membership

A community charter does not have to include all four affinities (*i.e.,* live, work, worship, or attend school in a community). Some examples of community fields of membership are:

• Persons who live, work, worship, or attend school in, and businesses located in the area of Johnson City, Tennessee, bounded by Fern Street on the north, Long Street on the east, Fourth Street on the south, and Elm Avenue on the west;

• Persons who live or work in Green County, Maine;

• Persons who live, worship, work (or regularly conduct business in), or attend school on the University of Dayton campus, in Dayton, Ohio;

• Persons who work for businesses located in Clifton Country Mall, in Clifton Park, New York;

• Persons who live, work, or worship in the Binghamton, New York, CBSA, consisting of Broome and Tioga Counties, New York (a qualifying CBSA in its entirety);

• Persons who live, work, worship, or attend school in the portion of the Oklahoma City, OK MSA that includes Canadian and Oklahoma counties, Oklahoma (two contiguous counties in a portion of a qualifying CBSA that has seven counties in total); or

• Persons who live, work, worship, or attend school in Uinta County or Lincoln County, Wyoming, a rural district.

Some examples of insufficiently defined local communities, neighborhoods, or rural districts are:

• Persons who live or work within and businesses located within a ten-mile radius of Washington, DC (using a radius does not establish a well-defined area);

• Persons who live or work in the industrial section of New York, New York. (not a well-defined neighborhood, community, or rural district); or

• Persons who live or work in the greater Boston area. (not a well-defined neighborhood, community, or rural district).

Some examples of unacceptable local communities, neighborhoods, or rural districts are:

• Persons who live or work in the State of California. (does not meet the definition of local community, neighborhood, or rural district).

• Persons who live in the first congressional district of Florida. (does not meet the definition of local community, neighborhood, or rural district).

■ 7. The first paragraph of Section V.D.2. of Chapter 2 of appendix B to part 701 is revised to read as follows:

V.D.2—Emergency Mergers

An emergency merger may be approved by NCUA without regard to common bond or other legal constraints. An emergency merger involves NCUA's direct intervention and approval. The credit union to be merged must either be insolvent or in danger of insolvency, as defined in the Glossary, and NCUA must determine that:

• An emergency requiring expeditious action exists;

• Other alternatives are not reasonably available; and

• The public interest would best be served by approving the merger.

* * * * *

■ 8. Section III.B.1 of Chapter 3 of appendix B to part 701 is amended by removing the last sentence of that section.

■ 9. In Appendix B to part 701, revise Appendix 1 to read as follows:

BILLING CODE 7535–01–P

APPENDIX 1

GLOSSARY

These definitions apply only for use with this Manual. Definitions are not intended to be all inclusive or comprehensive. This Manual, the Federal Credit Union Act, and NCUA Rules and Regulations, as well as state laws, may be used for further reference.

Adequately capitalized - A credit union is considered adequately capitalized when it has a net worth ratio of at least 6 percent. A multiple common bond credit union must be adequately capitalized in order to add new groups to its charter. The regional director may determine that a net worth ratio of less than 6 percent is adequate if the credit union is making reasonable progress toward meeting the 6 percent net worth requirement, and the addition of the group would not adversely affect the credit union's capitalization level.

Affinity - A relationship upon which a community charter is based. Acceptable affinities include living, working, worshiping, or attending school in a community.

Appeal - The right of a credit union or charter applicant to request a formal review of a regional director's adverse decision by the National Credit Union Administration Board.

Associational common bond - A common bond comprised of members and employees of a recognized association. It includes individuals (natural persons) and/or groups (non-natural persons) whose members participate in activities developing common loyalties, mutual benefits, and mutual interests.

Business plan - Plan submitted by a charter applicant or existing federal credit union addressing the economic advisability of a proposed charter or field of membership addition.

Charter - The document which authorizes a group to operate as a credit union and defines the fundamental limits of its operating authority, generally including the persons the credit union is permitted to accept for membership. Charters are issued by the National Credit Union Administration for federal credit unions and by the designated state chartering authority for credit unions organized under the laws of that state.

Common bond - The characteristic or combination of characteristics which distinguishes a particular group of persons from the general public. There are two common bonds which can serve as a basis for a group forming a federal credit union or being included in an existing federal credit union's field of membership: occupational - employment by the same company, related companies or in a trade, industry, or profession (TIP); and associational - membership in the same association.

Community credit union - A credit union whose field of membership consists of persons who live, work, worship, or attend school in the same well-defined local community, neighborhood, or rural district.

Credit union - A member-owned, not-for-profit cooperative financial institution formed to permit those in the field of membership specified in the charter to save, borrow, and obtain related financial services.

Economic advisability - An overall evaluation of the credit union's or charter applicant's ability to operate successfully.

Emergency merger - Pursuant to Section 205(h) of the Federal Credit Union Act, authority of NCUA to merge two credit unions without regard to common bond policy.

Exclusionary clause - A limitation, written in a credit union's charter, which precludes the credit union from serving a portion of a group which otherwise could be included in its field of membership.

Federal share insurance - Insurance coverage provided by the National Credit Union Share Insurance Fund and administered by the National Credit Union Administration. Coverage is provided for qualified accounts in all federal credit unions and participating state credit unions.

Field of membership - The persons (including organizations and other legal entities) a credit union is permitted to accept for membership.

Household - Persons living in the same residence maintaining a single economic unit.

Housekeeping Amendment - A field of membership amendment to delete groups, change group names, change group locations, remove exclusionary clauses, and to add other persons eligible for credit union membership by virtue of their close relationship to a common bond group or the community for community charters.

Immediate family member - A spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

In danger of insolvency - In making the determination that a particular credit union is in danger of insolvency, NCUA will establish that the credit union falls into one or more of the following categories:

1. The credit union’s net worth is declining at a rate that will render it insolvent within 24 months. In projecting future net worth, NCUA may relay on data in addition to Call Report data. The trend must be supported by at least 12 months of historic data.

2. The credit union's net worth is declining at a rate that will take it under two percent (2%) net worth within 12 months. In projecting future net worth, NCUA may rely on data in addition to Call Report data. The trend must be supported by at least 12 months of historic data.

3. The credit union's net worth, as self-reported on its Call Report, is significantly undercapitalized, and NCUA determines that there is no reasonable prospect of the credit union becoming adequately capitalized in the succeeding 36 months. In making its determination on the prospect of achieving adequate capitalization, NCUA will assume that, if adverse economic conditions are affecting the value of the credit union's assets and liabilities, including property values and loan delinquencies related to unemployment, these adverse conditions will not further deteriorate.

Letter of Understanding and Agreement - Agreement between NCUA and federal credit union officials not to engage in certain activities and/or to establish reasonable operational goals. These are normally entered into with new charter applicants for a limited time.

Mentor - An individual who provides guidance and assistance to newly chartered, small, or low-income credit unions. All new federal credit unions are encouraged to establish a mentor relationship with a trained, experienced credit union individual or an existing credit union.

Metropolitan Statistical Area (MSA) - The Office of Management and Budget defines a metropolitan statistical area as an urbanized area that has at least one urbanized area in excess of 50,000 and "comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county as measured through commuting."

Merger - Absorption by one credit union of all of the assets, liabilities and equity of another credit union. Mergers must be approved by the National Credit Union Administration and by the appropriate state regulator whenever a state credit union is involved.

Multiple common bond credit union - A credit union whose field of membership consists of more than one group, each of which has a common bond of occupation or association.

Occupational common bond - Employment by the same entity or related entities or a Trade, Industry, or Profession.

Once a member, always a member - A provision of the Federal Credit Union Act which permits an individual to remain a member of the credit union until he or she chooses to withdraw or is expelled from the membership of the credit union. Under this

provision, leaving a group that is named in the credit union's charter does not terminate an individual's membership in the credit union.

Organizations of such persons - An organization or organizations composed exclusively of persons who are within the field of membership of the credit union.

Overlap - The situation which results when a group is eligible for membership in more than one credit union.

Primary potential members - Members or employees who belong to an associational or occupational group.

Purchase and assumption - Purchase of all or part of the assets of and assumption of all or part of the liabilities of one credit union by another credit union. The purchased and assumed credit union must first be placed into involuntary liquidation.

Service area - The area that can reasonably be served by the service facilities accessible to the groups within the field of membership.

Service facility - A place where shares are accepted for members' accounts, loan applications are accepted or loans are disbursed. This definition includes a credit union owned branch, a mobile branch, an office operated on a regularly scheduled weekly basis, a credit union owned ATM, or a credit union owned electronic facility that meets, at a minimum, these requirements. A service facility also includes a shared branch or a shared branch network if either: (1) the credit union has an ownership interest in the service facility either directly or through a CUSO or similar organization; or (2) the service facility is local to the credit union and the credit union is an authorized participant in the service center. This definition does not include the credit union's Internet website. A service facility does not include an ATM or interest in a shared branch network for purposes of serving an underserved area.

Single associational common bond credit union - A credit union whose field of membership includes members and employees of a recognized association.

Single common bond credit union - A credit union whose field of membership consists of one group which has a common bond of occupation or association.

Single occupational common bond credit union - A credit union whose field of membership consists of employees of the same entity or related entities or part of a Trade, Industry, or Profession (TIP).

Spin-off - The transfer of a portion of the field of membership, assets, liabilities, shares, and capital of one credit union to a new or existing credit union.

Subscribers - For a federal credit union, at least seven individuals who sign the charter application and pledge at least one share.

Trade, Industry, or Profession (TIP) - A single occupational common bond credit union based on employment in a trade, industry, or profession including employment at any number of corporations or other legal entities that while not under common ownership – have a common bond by virtue of producing similar products, providing similar services, or participating in the same type of business.

Underserved community - A local community, neighborhood, or rural district that is an "investment area" as defined in Section 103(16) of the Community Development Banking and Financial Institutions Act of 1994. The area must also be underserved based on other NCUA and federal banking agency data.

Unsafe or unsound practice - Any action, or lack of action, which would result in an abnormal risk or loss to the credit union, its members, or the National Credit Union Share Insurance Fund.

[FR Doc. 2010–15130 Filed 6–24–10; 8:45 am]
BILLING CODE 7535–01–C

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

12 CFR Part 1102

[Docket No. AS10–2]

Appraisal Subcommittee; Appraiser Regulation; Privacy Act Implementation

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council (Subcommittee).

ACTION: Final rule amendments.

SUMMARY: The Subcommittee is adopting nonsubstantive amendments to its regulations relating to the Privacy Act of 1974. The amendments correct the street address and zip code for the Subcomittee's office, which was moved in October 2008, from 2000 K Street, NW., Suite 310, Washington, DC 20006, to 1401 H Street, NW., Suite 760,Washington, DC 20005.

DATES: *Effective Date:* June 25, 2010.

FOR FURTHER INFORMATION CONTACT: Alice M. Ritter, General Counsel, at (202) 595–7577 or *alice@asc.gov;* Appraisal Subcommittee; 1401 H Street, NW., Suite 760, Washington, DC 20005.

SUPPLEMENTARY INFORMATION:

I. Authority and Section-by-Section Analysis

The Privacy Act of 1974 is based, in part, on the finding by Congress that "in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for the Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies." To achieve this objective, the Act generally provides that Federal agencies must advise an individual upon request whether records maintained by the agency in a system of records pertain to the individual and must grant the individual access to such records. The Act further provides that individuals may request amendments to records pertaining to them that are maintained by the agency, and that the agency shall either grant the requested amendments or set forth fully its reasons for refusing to do so.

In 1992, the Subcommittee, pursuant to subsection (f) of the Privacy Act, adopted 12 CFR subpart C containing rules and procedures to implement the Privacy Act. In October 2008, the Subcommittee moved its offices from 2000 K Street, NW., to its current location at 1401 H Street, NW. Subpart C, as adopted, contains numerous references to the Subcommittee's K Street address. The Subcommittee is amending subpart C by removing all references to the former K Street location and replacing them with the Subcommittee's current H Street address.

II. Administrative Requirements

A. Notice and Comment Requirements Under 5 U.S.C. 553

The Subcommittee, under 12 U.S.C. 553, is required, among other things, to publish in the **Federal Register** for public notice and comment a general notice of proposed rule making, unless, in accordance with paragraph (b)(3)(B), the agency finds "for good cause * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." The Subcommittee finds that notice and procedure are unnecessary in connection with these rule amendments because they are nonsubstantive and essentially are nomenclature changes, as that term is defined in the **Federal Register** *Document Drafting Handbook,* page 2–31 (October 1998).

List of Subjects in 12 CFR Part 1102

Administrative practice and procedure, Banks, banking, Freedom of information, Mortgages, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

Text of the Rule

■ For the reasons set forth in the preamble, title 12, chapter XI of the Code of Federal Regulations is amended as follows:

PART 1102—APPRAISER REGULATION

Subpart C—Rules Pertaining to the Privacy of Individuals and Systems of Records Maintained by the Appraisal Subcommittee

■ 1. The authority citation for part 1102, subpart C is revised to read as follows:

Authority: Privacy Act of 1974, Pub. L. 93–579, 88 Stat. 1896; 12 U.S.C. 552a, as amended.

§§ 1102.102, 1102.105, and 1102.107 [Amended]

■ 2. In 12 CFR part 1102, remove the words "2000 K Street, NW., Suite 310, Washington, DC 20006" and add, in their place, the words, "1401 H Street, NW., Suite 760,Washington, DC 20005" in the following places:

■ a. Section 1102.102(a) introductory text, and (a)(2);

■ b. Section 1102.105(a); and

■ c. Section 1102.107(a)(2), and (b)(1).

By the Appraisal Subcommittee.

Dated: June 16, 2010.

Deborah S. Merkle,

Chairman.

[FR Doc. 2010–15317 Filed 6–24–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3500

[Docket No. FR–5425–IA–01]

Real Estate Settlement Procedures Act (RESPA): Home Warranty Companies' Payments to Real Estate Brokers and Agents

AGENCY: Office of General Counsel, HUD.

ACTION: Interpretive rule.

SUMMARY: Under section 8 of RESPA and HUD's implementing RESPA regulations, services performed by real estate brokers and agents as additional settlement services in a real estate transaction are compensable if the services are actual, necessary and distinct from the primary services provided by the real estate broker or agent, the services are not nominal, and the payment is not a duplicative charge. A referral is not a compensable service for which a broker or agent may receive compensation. This rule interprets section 8 of RESPA and HUD's regulations as they apply to the compensation provided by home warranty companies to real estate brokers and agents. Although interpretive rules are exempt from public comment under the Administrative Procedure Act, HUD nevertheless welcomes public comment on this interpretation.

DATES: *Effective date:* June 25, 2010. *Comment Due Date:* July 26, 2010.

ADDRESSES: Interested persons are invited to submit comments regarding this interpretive rule to the Regulations Division, Office of General Counsel, 451 7th Street, SW., Room 10276, Department of Housing and Urban Development, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For legal questions, contact Paul S. Ceja, Assistant General Counsel for RESPA/SAFE, telephone number 202–708–3137; or Peter S. Race, Assistant General Counsel for Compliance, telephone number 202–708–2350; Department of Housing and Urban Development, 451 7th Street, SW., Room 9262, Washington, DC 20410. For other questions, contact Barton Shapiro, Director, or Mary Jo Sullivan, Deputy Director, Office of RESPA and Interstate Land Sales, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 9158, Washington, DC 20410; telephone number 202–708–0502. These telephone numbers are not toll-free. Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A homeowner's warranty is covered as a "settlement service" under HUD's RESPA regulations at 24 CFR 3500.2. Accordingly, the framework for compensation of real estate brokers and agents for services performed on behalf of home warranty companies (HWCs) is established in RESPA and HUD's regulations, as discussed in an unofficial staff interpretation letter dated February 21, 2008, issued by the Office of General Counsel. In brief, services performed by real estate brokers and agents on behalf of HWCs are compensable as additional settlement services if the services are actual, necessary and distinct from the primary services provided by the real estate broker or agent. (*See* 24 CFR 3500.14(g)(3).) The real estate broker or agent may accept a portion of the charge for the homeowner warranty only if the broker or agent provides services that are not nominal and for which there is not a duplicative charge. (*See* 24 CFR 3500.14(c).)

HUD has received inquiries regarding the application of this framework to the compensation provided by HWCs to real estate brokers and agents for the selling of home warranties in connection with the sale or purchase of a home. In particular, interested parties have inquired about the legality of the HWCs providing compensation to real estate brokers and agents on a per transaction basis and about the scope of services provided on behalf of the HWC for which real estate brokers and agents can be compensated by the HWC.

II. This Interpretive Rule

This interpretive rule clarifies the legality under section 8 of RESPA and HUD's implementing regulations of the compensation provided by HWCs to real estate brokers and agents, and it is provided in accordance with Secretary of HUD's delegation of authority to the General Counsel to interpret the authority of the Secretary. (*See* 74 FR 62801, at 62802.)

A. Unlawful Compensation for Referrals

RESPA does not prohibit a real estate broker or agent from referring business to an HWC. Rather, RESPA prohibits a real estate broker or agent from receiving a fee for such a referral, as a referral is not a compensable service. (*See* 24 CFR 3500.14(b).) HUD's regulations, at 24 CFR 3500.14(f), defines referral, in relevant part, as follows:

A referral includes any oral or written action directed to a person which has the effect of *affirmatively influencing the selection by any person of a provider of a settlement service* or business incident to or part of a settlement service when such person will pay for such settlement service or business incident thereto or pay a charge attributable in whole or in part to such settlement service or business. (Emphasis added.)

To evaluate whether a payment from an HWC is an unlawful kickback for a referral, HUD may look in the first instance to whether, among other things:

- The compensation for the HWC services provided by the real estate broker or agent is contingent on an arrangement that prohibits the real estate broker or agent from performing services for other HWC companies; *e.g.* if a real estate broker or agent is compensated for performing HWC services for only one company, this is evidence that the compensation may be contingent on such an arrangements; and
- Payments to real estate brokers or agents by the HWC are based on, or adjusted in future agreements according to, the number of transactions referred.

If it is subsequently determined, however, that the payment at issue is for only compensable services,[1] the existence of such arrangements and agreements would not be an indicator of an unlawful referral arrangement, and would be permissible. (*See* discussion in Sections C and D below.)

B. Marketing by a Real Estate Broker or Agent Directed to Particular Homebuyers or Sellers

In some circumstances, marketing services performed on behalf of an HWC are not compensable services. In particular, a real estate broker or agent is in a unique position to refer settlement service business and through marketing can affirmatively influence a homebuyer's or seller's selection of an HWC. As a real estate broker and agent hold positions of influence in the real estate transaction, a homebuyer or seller is more likely to accept the broker's or agent's promotion or recommendation of a settlement service provider. Therefore, marketing performed by a real estate broker or agent on behalf of an HWC to sell a homeowner warranty to particular homebuyers or sellers is a "referral" to a settlement service provider.

Accordingly, in a transaction involving a federally related mortgage loan, an HWC's compensation of a real estate broker or agent for marketing services that are directed to particular homebuyers or sellers would be a payment that violates section 8 of RESPA as an illegal kickback for a referral of settlement service business. For example, a real estate broker or agent actively promoting an HWC and its products to sellers or prospective homebuyers by providing HWC verbal "sales pitches" about the benefits of a particular HWC product or by distributing the HWC's promotional material at the broker's or agent's office or at an open house is considered to be a referral. Thus, compensating the real estate broker or agent for such promotion would result in a violation of section 8 of RESPA.

Nothing precludes a real estate broker or agent from performing services to aid the seller or buyer, or to increase the possibility that the real estate transaction will occur and thereby benefit the broker or agent. However, the broker or agent may not be compensated by the HWC for marketing services directed to particular homebuyers or sellers.

C. Bona Fide Compensation for Services Performed

Section 8(c) of RESPA and HUD's regulations allow payment of bona fide compensation for services actually performed. (*See* 24 CFR 3500.14(g)(1)(iv).) HUD's regulations also allow persons in a position to refer settlement service business to receive payments for providing additional compensable services as part of a transaction. (*See* 24 CFR 3500.14(g)(3).) Services performed by real estate brokers and agents on behalf of HWCs would be compensable as additional settlement services only if the services are actual, necessary and distinct from the primary services provided by the real estate broker or agent. Further, the real estate broker or agent may accept, and an HWC may pay to the broker or agent, a portion of the charge for the homeowner warranty only for services that are not nominal and for which there is not a duplicative charge. (*See* 24 CFR 3500.14(c).) HUD looks at the actual services provided to determine in a particular case whether compensable services have been performed by the real estate broker or agent.[2]

A determination that compensable services have been performed by the real estate broker or agent will be based on a review of the particular facts of each case. Evidence in support of such a determination may include:

- Services—other than referrals—to be performed are specified in a contract between the HWC and the real estate broker or agent, and the real estate broker or agent has documented the services provided to the HWC;
- The services actually performed are not duplicative of those typically provided by a real estate broker or agent;
- The real estate broker or agent is by contract the legal agent of the HWC, and the HWC assumes responsibility for any representations made by the broker or agent about the warranty product; and
- The real estate broker or agent has fully disclosed to the consumer the compensable services that will be provided and the compensation arrangement with the HWC, and has made clear that the consumer may purchase a home warranty from other vendors or may choose not to purchase any home warranty.

HUD will review evidence on a case-by-case basis to determine whether compensation provided was a kickback for a referral or a legal payment for the compensable services. If it is factually determined that only actual compensable services have been performed by a real estate broker or agent in a transaction, it follows that transaction-based compensation of that broker or agent that is reasonable would not be an indicator of an unlawful referral arrangement and would be permissible.

Reasonableness of Compensation

As the final step in assessing the legality of the compensation for these services, HUD will also assess whether the value of the payment by the HWC is reasonably related to the value of the services actually performed by the real estate broker or agent. In the context of loan origination, for example, HUD has stated that the mere taking of an application is not sufficient work to justify a fee under RESPA. In its Statement of Policy 1999–1, entitled "Regarding Lender Payments to Mortgage Brokers" (64 FR 10080, March 1, 1999), HUD stated:

Although RESPA is not a rate-making statute, HUD is authorized to ensure that payments from lenders to mortgage brokers are reasonably related to the value of the goods or facilities actually furnished or services actually performed, and are not

[1] Compensable services are services that are actual, necessary and distinct from the primary services provided by the real estate broker or agent, that are not nominal, and for which duplicative fees are not charged.

[2] For example, conducting actual inspections of the items to be covered by the warranty to identify pre-existing conditions that could affect home warranty coverage, recording serial numbers of the items to be covered, documenting the condition of the covered items by taking pictures and reporting to the HWC regarding inspections may be compensable services.

compensation for the referrals of business, splits of fees or unearned fees.

In analyzing whether a particular payment or fee bears a reasonable relationship to the value of the goods or facilities actually furnished or services actually performed, HUD believes that payments must be commensurate with that amount normally charged for similar services, goods or facilities * * *. If the payment or a portion thereof bears no reasonable relationship to the market value of the goods, facilities or services provided, the excess over the market rate may be used as evidence of a compensated referral or an unearned fee in violation of Section 8(a) or (b) of RESPA. (*See* 24 CFR 3500.14(g)(2).) Moreover, HUD also believes that the market price used to determine whether a particular payment meets the reasonableness test may not include a referral fee or unearned fee, because such fees are prohibited by RESPA. Congress was clear that for payments to be legal under Section 8, they must bear a reasonable relationship to the value received by the person or company making the payment. (S. Rep. 93–866, at 6551.) 64 FR 10086.

D. Conclusion

Accordingly, HUD interprets section 8 of RESPA and HUD's regulations as these authorities apply to the compensation provided by home warranty companies to real estate brokers and agents as follows:

(1) A payment by an HWC for marketing services performed by real estate brokers or agents on behalf of the HWC that are directed to particular homebuyers or sellers is an illegal kickback for a referral under section 8;

(2) Depending upon the facts of a particular case, an HWC may compensate a real estate broker or agent for services when those services are actual, necessary and distinct from the primary services provided by the real estate broker or agent, and when those additional services are not nominal and are not services for which there is a duplicative charge; and

(3) The amount of compensation from the HWC that is permitted under section 8 for such additional services must be reasonably related to the value of those services and not include compensation for referrals of business.

F. Solicitation of Comment

This interpretive rule represents HUD's interpretation of its existing regulations and is exempt from the notice and comment requirements of the Administrative Procedure Act. (*See* 5 USC 553(b)(3)(A)). Nevertheless, HUD is interested in receiving feedback from the public on this interpretation, specifically with respect to clarity and scope.

Dated: June 18, 2010.

Helen R. Kanovsky,

General Counsel.

[FR Doc. 2010–15355 Filed 6–24–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 1, 3, 8, 13, 19, 23, 25, 26, 27, 51, 67, 81, 84, 89, 96, 101, 104, 105, 110, 114, 116, 118, 120, 126, 127, 128, 135, 140, 141, 144, 148, 149, 150, 151, 153, 154, 155, 156, 157, 158, 159, 160, 164, 165, 167, 169, 174, 179, 181, and 183

[Docket No. USCG–2010–0351]

RIN 1625–ZA25

Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This rule makes non-substantive changes throughout Title 33 of the Code of Federal Regulations. The purpose of this rule is to make conforming amendments and technical corrections to Coast Guard navigation and navigable waters regulations. This rule will have no substantive effect on the regulated public. These changes are provided to coincide with the annual recodification of Title 33 on July 1.

DATES: This final rule is effective June 25, 2010.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–0351 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting USCG–2010–0351 in the "Keyword" box, and then clicking "Search."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Diane LaCumsky, Coast Guard; telephone 202–372–1025, e-mail *Diane.M.LaCumsky@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(3)(A), the Coast Guard finds this rule is exempt from notice and comment rulemaking requirements because these changes involve rules of agency organization, procedure, or practice. In addition, the Coast Guard finds notice and comment procedure are unnecessary under 5 U.S.C. 553 (b)(3)(B) as this rule consists only of corrections and editorial, organizational, and conforming amendments and these changes will have no substantive effect on the public. This rulemaking also implements the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, by revising the Penalty Adjustment Table published in 33 CFR 27.3. This revision reflects statutorily prescribed adjustments of civil monetary penalties (CMP) for 2010. These statutes do not allow for discretion in implementation, rendering prior notice and comment unnecessary and contrary to the public interest.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that, for the same reasons, good cause exists for making this rule effective upon publication in the **Federal Register.**

II. Background

Each year the printed edition of Title 33 of the Code of Federal Regulations is recodified on July 1. This rule, which becomes effective June 25, 2010, makes technical and editorial corrections throughout Title 33 in time to be reflected in the recodification. This rule does not create any substantive requirements.

III. Discussion of Rule

This rule amends 33 CFR Part 1 by adding a new paragraph to clarify the Coast Guard's District Commanders' authority to redelegate signature of

temporary deviations for bridge operating schedules. This rule clarifies existing practice which allows the District Commander to give the District Bridge Chief the authority to sign temporary deviations.

This rule revises 33 CFR Part 3 to designate Sector Honolulu Marine Inspection Zone and Captain of the Port Zone boundaries to accurately reflect current agency practice. We also add a new section to 33 CFR Part 3, to reflect internal agency organization providing for Officer in Charge, Marine Inspection (OCMI) authority in the Far East Maritime Inspection Zone. Additionally, we are adding a new paragraph to Part 3 to establish agency procedure and practice in execution of Search and Rescue in the Atlantic Area Search and Rescue Regions (SRR).

In this rule, the Coast Guard is publishing the 2010 Civil Monetary Penalty Inflation Adjustments. These adjustments, in 33 CFR Part 27, are made in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, and implement the provisions of these statutes. These statutes require the Coast Guard to periodically adjust the civil monetary penalties for inflation by a method that is specifically prescribed within these statutes and which allows no discretion. The statutory method specifies the inflation measure to be used, the method for the calculation of the inflation adjustment, and the method for the numerical rounding of the results.

The publication in this final rule of the adjustments for 2010 establishes agency procedure for publishing the annual prescribed adjustment of civil penalties as a part of the Coast Guard's annual technical amendment to 33 CFR, as opposed to publishing separate rulemakings for the annual adjustments.

The last inflation adjustments were made in 2009. 74 FR 68150, December 23, 2009. The 2010 adjustments are based on the change in the Consumer Price Index for All Urban Consumers (CPI–U) from June 2008 to June 2009. The recorded change in CPI–U during that period was −1.43 percent. Because of the small change in CPI–U and the required rules for rounding, there was no change to any of the maximum penalty amounts from the previous adjustment and the 2010 amounts are therefore identical to the 2009 amounts.

This rule revises 33 CFR Part 155 to correct a typographical error found in 33 CFR 155.4030(g), which erroneously states the pumping rate factor as 0.16 gpm/ft2 instead of 0.016 gpm/ft2. In the preamble to the salvage and marine firefighting final rule, the Coast Guard expressly disagreed with the suggestion that the application rates for foam be made consistent with National Fire Protection Association (NFPA) 11 and 11A which require a minimum application rate of 0.16 gallons per minute per square foot (gpm/ft2) for a fuel spill involving flammable liquids in depth. 73 FR 80618, December 31, 2008. Instead, as reflected in the preamble of that rule, § 155.4030(g) was intended to meet the quantity of foam requirements in the existing 46 CFR 34.20–5, and Coast Guard NVIC 06–72 "Guide to Fixed Fire-Fighting Equipment Aboard Merchant Vessels." These standards require a quantity of foam large enough to supply foam to one tenth of the surface over the cargo tanks, or the horizontal sectional area of the single largest tank. However, this minimum application rate was not reflected correctly in § 155.4030(g) due to a typographical error in the final rule. Thus, the pumping rate factor is corrected from 0.16 gpm/ft2 to 0.016 gpm/ft2. As discussed in the preamble to the salvage and marine firefighting final rule, the Coast Guard clearly intended to use the extinguishing agent application rate of 0.016 gpm/ft2 to calculate the amount necessary to address a contained fire involving 10 percent of the deck area of the vessel for 20 minutes. If this typographical error was not corrected and the application rate remained at 0.16 gpm/ft2, industry would be required to use 10 times the amount of foam than was considered in the final rule, resulting in increased cost and burden to industry.

This rule also revises 33 CFR Part 155 to correct an omission in the wording of 33 CFR 155.4035(b)(1). This technical amendment changes the salvage and marine firefighting final rule to align with the Coast Guard's intent that either the NFPA pre-fire plan or an alternative fire plan are acceptable for meeting the requirement for a marine firefighting pre-fire plan. In the preamble to the salvage and marine firefighting final rule, the Coast Guard said, "We added wording to allow SOLAS vessels to use their SOLAS fire plans in lieu of a fire plan developed under NFPA 1405 to § 155.4035(b)(1)." 73 FR 80624, December 31, 2008. However, this was inadvertently not added to § 155.4035(b)(1) in the final rule. We are correcting this omission by revising § 155.4035(b)(1) to reflect modification to this section as it was originally intended and stated in the preamble to the final rule. Additionally, although the preamble used the term "SOLAS fire plans," there is no such document under the International Convention for the Safety of Life at Sea, 1974, as amended, (SOLAS). The revision to § 155.4035(b)(1) uses the correct reference: "SOLAS Chapter II–2, Regulation 15."

This rule revises 33 CFR Part 158 to implement non-discretionary provisions in the Act to Prevent Pollution from Ships (APPS) (33 U.S.C. 1901, *et al.*). APPS mandates pollution reception facilities' certificates issued under 33 U.S.C. 1905(c) are valid for a 5-year period or until certain conditions are met. We are revising 33 CFR Part 158 to incorporate this change to APPS as prescribed by the Coast Guard Authorization Act of 1996 (Pub. L. 104–324).

This rule removes an unnecessary note explaining LORAN–C functions in 33 CFR Part 167. The note provides no substantive guidance or requirement and is no longer applicable to the description of traffic separation schemes and precautionary areas in Sector New York.

This rule corrects latitude/longitude coordinates of certain Coast Guard Sector Marine Inspection Zones, Captain of the Port Zones, and other areas in 33 CFR Parts 110 and 167.

This rule updates various addresses for Coast Guard offices throughout Title 33 of the Code of Federal Regulations in order to conform to new mailing addresses and mailing address formats that came into use June 15, 2009. This rule also updates internal Coast Guard office designators, as well as certain personnel titles throughout Title 33. Changes in personnel titles included in this rule are only technical revisions reflecting changes in agency procedure and organization, and do not indicate new authorities.

Finally, this rule corrects non-substantive, typographical errors throughout Title 33.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

A. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Because this rule involves non-substantive changes and internal agency

practices and procedures, it will not impose any additional costs on the public.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

We estimate this rule will not impose any additional costs and should have little or no impact on small entities because the provisions of this rule are technical and non-substantive, and will have no substantive effect on the public and will impose no additional costs. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

G. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

H. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

I. Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

J. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

K. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

L. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34) (a) of the Instruction. This rule involves regulations which are editorial and/or procedural, such as those updating addresses or establishing application procedures. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 8

Armed forces reserves.

33 CFR Part 13

Decorations, medals, awards.

33 CFR Part 19

Navigation (water), Vessels.

33 CFR Part 23

Aircraft, Signs and symbols, Vessels.

33 CFR Part 25

Authority delegations (Government agencies), Claims.

33 CFR Part 26

Communications equipment, Marine safety, Radio, Telephone, Vessels.

33 CFR Part 27

Administrative practice and procedure, Penalties.

33 CFR Part 51

Administrative practice and procedure, Military personnel.

33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 81

Navigation (water), Reporting and recordkeeping requirements, Treaties.

33 CFR Part 84

Navigation (water), Waterways.

33 CFR Part 89

Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 96

Administrative practice and procedure, Marine safety, Reporting and recordkeeping requirements, Vessels.

33 CFR Part 101

Harbors, Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

33 CFR Part 104

Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

33 CFR Part 105

Maritime security, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 110

Anchorage grounds.

33 CFR Parts 114, 116, and 118

Bridges.

33 CFR Part 120

Passenger vessels, Reporting and recordkeeping requirements, Security measures, Terrorism.

33 CFR Part 126

Explosives, Harbors, Hazardous substances, Reporting and recordkeeping requirements.

33 CFR Part 127

Fire prevention, Harbors, Hazardous substances, Natural gas, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 128

Harbors, Reporting and recordkeeping requirements, Security measures, Terrorism.

33 CFR Part 135

Administrative practice and procedure, Continental shelf, Insurance, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 140

Continental shelf, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping requirements.

33 CFR Part 144

Continental shelf, Marine safety, Occupational safety and health.

33 CFR Part 148

Administrative practice and procedure, Environmental protection, Harbors, Petroleum.

33 CFR Part 149

Fire prevention, Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution.

33 CFR Part 150

Harbors, Marine safety, Navigation (water), Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Parts 153

Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 154

Alaska, Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 155

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 157

Cargo vessels, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 158

Administrative practice and procedure, Harbors, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 159

Alaska, Reporting and recordkeeping requirements, Sewage disposal, Vessels.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 164

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

33 CFR Part 167

Harbors, Marine safety, Navigation (water), Waterways.

33 CFR Part 169

Endangered and threatened species, Marine mammals, Navigation (water), Radio, Reporting and recordkeeping requirements, Vessels, Water pollution control.

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 179

Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 181

Labeling, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 183

Marine safety.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 parts 1, 3, 8, 13, 19, 23, 25, 26, 27, 51, 67, 81, 84, 89, 96, 101, 104, 105, 110, 114, 116, 118, 120, 126, 127, 128, 135, 140, 141, 144, 148, 149, 150, 151, 153, 154, 155, 156, 157, 158, 159, 160, 164, 165, 167, 169, 174, 179, 181, and 183.

PART 1—GENERAL PROVISIONS

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 401, 491, 525, 1321, 2716, and 2716a; 42 U.S.C. 9615; 49 U.S.C. 322; Department of Homeland Security Delegation No. 0170.1; section 1.01–70 also issued under the authority of E.O. 12580, 3 CFR, 1987 Comp., p. 193; and sections 1.01–80 and 1.01–85 also issued under the authority of E.O. 12777, 3 CFR, 1991 Comp., p. 351.

§ 1.01–60 [Amended]

■ 2. In § 1.01–60(a), remove the words "Assistant Commandant for Operations" and add, in their place, the words "Deputy Commandant for Operations (CG–DCO)".

■ 3. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
1.01–70(b)	(G–M)	(CG–5).
1.05–20(a)	Second Street SW, Washington, DC 20593–0001.	2nd St. SW., Stop 7121, Washington, DC 20593–7121.
1.10–5(a)	Second St., SW, Washington, DC 20593–0001.	2nd St. SW., Stop 7101, Washington, DC 20593–7101.
1.26–5(b)	(G–WPM–3), 2100 Second St., SW, Washington, DC 20593.	(CG–1221) 2nd St. SW., Stop 7801, Washington, DC 20593–7801.

■ 4. Amend § 1.05–1 as follows:

■ a. In paragraph (g), remove the words "Assistant Commandant for Operations" and add, in their place, the words "Deputy Commandant for Operations (CG–DCO)"; and

■ b. Add new paragraph (j) to read as follows:

§ 1.05–1 Delegation of rulemaking authority.

* * * * *

(j) The Commandant has redelegated to Coast Guard District Commanders the authority to redelegate in writing to the Coast Guard District Bridge Chief, with the reservation that this authority must not be further redelegated, the authority to issue temporary deviations from drawbridge operating regulations as the District Bridge Chief deems necessary.

§ 1.10–5 [Amended]

■ 5. In § 1.10–5(a) and (c), after the words "Information Management", add the designation "(CG–61)".

§ 1.20–1 [Amended]

■ 6. Amend § 1.20–1 as follows:

■ a. In paragraph(c), remove the words "Chief counsel, U.S. Coast Guard" and add, in their place, the words "Judge Advocate General and Chief Counsel, U.S. Coast Guard (CG–094)"; and after the words "Chief, Office of Claims and Litigation", add the designation "(CG–0945)".

■ b. In paragraph (d), remove the words "Chief Counsel or the Deputy Chief Counsel of the Coast Guard" and add, in their place, the words "Judge Advocate General and Chief Counsel or the Deputy Judge Advocate General and Deputy Chief Counsel of the Coast Guard (CG–094)".

§ 1.26–5 [Amended]

■ 7. In § 1.26–5(b), remove the designation "(G–WPM–3)" and add, in its place, the designation "(CG–1221)".

§ 1.26–15 [Amended]

■ 8. In § 1.26–15(d), (d)(1), and (d)(4), remove the designation "(FS)" and add, in its place, the designation "(CG–9)".

§ 1.26–20 [Amended]

■ 9. In § 1.26–20(b), remove the designation "(FS)" and add, in its place, the designation "(CG–9)".

PART 3—COAST GUARD AREAS, DISTRICTS, SECTORS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

■ 10. The authority citation for part 3 continues to read as follows:

Authority: 14 U.S.C. 92; Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1, para. 2(23).

■ 11. Amend § 3.01–1 as follows:

■ a. Redesignate paragraph (b) as paragraph (b)(1); and

■ b. Add paragraph (b)(2) to read as follows:

§ 3.01–1 General description.

* * * * *

(b) * * *

(2) For search and rescue (SAR) mission execution in the Atlantic Area, Districts may execute SAR missions to the full extent of the Area's Search and Rescue Region (SRR). Under this plan, Districts in the Atlantic Area will assume SAR Coordinator responsibilities and will act as SAR Mission Coordinator for any case prosecuted within their expanded regions. The exact coordinates of Atlantic Area's SRR can be found in the United States National Search and Rescue Supplement to the International Aeronautical and Maritime Search and Rescue Manual.

* * * * *

■ 12. Revise § 3.70–10 to read as follows:

§ 3.70–10 Sector Honolulu Marine Inspection Zone and Captain of the Port Zone.

Sector Honolulu's office is located in Honolulu, HI. The boundaries of Sector Honolulu's Marine Inspection Zone and Captain of the Port Zone comprise the State of Hawaii, including all the islands and atolls of the Hawaiian chain and the adjacent waters of the exclusive economic zone (EEZ); and the following islands and their adjacent waters of the EEZ: American Samoa, Johnston Atoll, Palmyra Atoll, Kingman Reef, Wake Island, Jarvis Island, Howland and Baker Islands, and Midway Island. Sector Honolulu's Marine Inspection Zone also includes the Independent State of Samoa.

■ 13. In § 3.70–15, remove the words "on Victor Wharf, U.S. Naval Base, Guam.", and add, in their place, the words "in Santa Rita, Guam."; and at the end of the last sentence, add a new sentence to read as follows:

§ 3.70–15 Sector Guam Marine Inspection Zone and Captain of the Port Zone.

* * * Sector Guam's Marine Inspection Zone also includes the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

■ 14. Add § 3.70–20 to read as follows:

§ 3.70–20 Activities Far East Marine Inspection Zone.

(a) Activities Far East's office is located in Yokota, Japan. The boundaries of Activities Far East's Marine Inspection Zone coincide with the boundaries of the Fourteenth Coast Guard District, which are described in § 3.70–1, excluding those areas within the Honolulu and Guam Marine Inspection Zones, as described in this part.

(b) Only for this part, the boundary between Activities Far East and Activities Europe Marine Inspection Zones is demarked by a southerly line bisecting the border of the Republic of India and the Islamic Republic of Pakistan.

PART 8—UNITED STATES COAST GUARD RESERVE

■ 15. The authority citation for part 8 continues to read as follows:

Authority: 14 U.S.C. 633.

§ 8.7 [Amended]

■ 16. In § 8.7(a), remove the phrase "(G–WTR), 2100 Second St., SW., Washington, DC 20593–0001" and add, in its place, the phrase "(CG–13), 2100 2nd St. SW., Stop 7801, Washington, DC 20593–7801".

PART 13—DECORATIONS, MEDALS, RIBBONS AND SIMILAR DEVICES

■ 17. The authority citation for part 13 continues to read as follows:

Authority: Secs. 500, 633, 63 Stat. 536, 545, sec. 6(b)(1), 80 Stat. 938; 14 U.S.C. 500, 633; 49 U.S.C. 1655(b); 49 CFR 1.4 (a)(2) and (f).

§ 13.01–15 [Amended]

■ 18. In § 13.01–15(a), remove the phrase "Washington, DC 20593" and add, in its place, the phrase "2nd St. SW., Stop 7000, Washington, DC 20593–7000".

PART 19—WAIVERS OF NAVIGATION AND VESSEL INSPECTION LAWS AND REGULATIONS

■ 19. The authority citation for part 19 continues to read as follows:

Authority: Sec. 1, 64 Stat. 1120, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. note prec. 1, 49 U.S.C. 108; Department of Homeland Security Delegation No. 0170.1.

§ 19.06 [Amended]

■ 20. In § 19.06, in paragraph (b) introductory text, remove the phrase "(G–MOC), U.S. Coast Guard, Washington, DC 20593–0001" and add, in its place, the phrase "(CG–543), 2100 2nd St. SW., Stop 7000, Washington, DC 20593–7000"; and in paragraph (d), remove the phrase "(G–MOC)" and add, in its place, the phrase "(CG–543)".

PART 23—DISTINCTIVE MARKINGS FOR COAST GUARD VESSELS AND AIRCRAFT

■ 21. The authority citation for part 23 continues to read as follows:

Authority: Secs. 638, 639, 63 Stat. 546; 14 U.S.C. 638, 639, E.O. 10707, 3 CFR, 1954–1958 Comp., p. 364.

§ 23.10 [Amended]

■ 22. In § 23.10(d), remove the phrase "Washington, D.C. 20593" and add, in its place, the phrase "2100 2nd St. SW., Stop 7000, Washington, DC 20593–7000".

§ 23.12 [Amended]

■ 23. In § 23.12(c), remove the phrase "Washington, D.C. 20593" and add, in its place, the phrase "2100 2nd St. SW., Stop 7000, Washington, DC 20593–7000".

PART 25—CLAIMS

■ 24. The authority citation for part 25 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.45(a); 49 CFR 1.45(b); 49 CFR 1.46(b), unless otherwise noted.

§ 25.103 [Amended]

■ 25. In § 25.103, after the words "assistance from the Coast Guard", remove the phrase "Maintenance and Logistics Command Atlantic (lc), located at 300 East Main Street, Suite 965, Norfolk, VA 23510–9113 or from the Coast Guard Maintenance and Logistics Command Pacific (lc), located at Coast Guard Island, Alameda, California, 94501, or from Commandant (G–LCL), U.S. Coast Guard, Washington, DC 20593" and add, in its place, the phrase "Legal Service Command, Claims Division (LSC–5), located at 300 East Main Street, Suite 400, Norfolk, VA 23510–9100, or from Commandant (CG–0945), 2100 2nd St., SW., Stop 7121, Washington, DC 20593–7121".

§ 25.111 [Amended]

■ 26. In § 25.111(b)(3), remove the phrase "United States Coast Guard, 2100 Second Street, SW., Washington, D.C. 20593" and add, in its place, the phrase "(CG–0945), 2100 2nd St., SW., Stop 7121, Washington, DC 20593–7121"; and to the undesignated text following paragraph (b)(3) add the designation "Note to paragraph (b):".

PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

■ 27. The authority citation for part 26 continues to read as follows:

Authority: 14 U.S.C. 2, 33 U.S.C. 1201–1208; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170. Rule 1, International Regulations for the Prevention of Collisions at Sea.

§ 26.08 [Amended]

■ 28. In § 26.08(c) introductory text, remove the phrase "2100 Second Street, SW., Washington, D.C. 20593–0001" and add, in its place, the phrase "(CG–5), 2100 2nd St., SW., Stop 7355, Washington, DC 20593–7355".

PART 27—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

■ 29. The authority citation for part 27 continues to read as follows:

Authority: Secs. 16, Pub. L. 101410, 104 Stat. 890, as amended by Sec. 31001(s)(1), Pub. L. 104134, 110 Stat. 1321 (28 U.S.C. 2461 note); Department of Homeland Security Delegation No. 0170.1, sec. 2 (106).

■ 30. Revise § 27.3 to read as follows:

§ 27.3 Penalty Adjustment Table.

Table to § 27.3 identifies the statutes administered by the Coast Guard that authorize a civil monetary penalty. The "adjusted maximum penalty" is the maximum penalty authorized by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended, as determined by the Coast Guard.

TABLE TO § 27.3—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. code citation	Civil monetary penalty description	2010 adjusted maximum penalty amount ($)
14 U.S.C. 88(c)	Saving Life and Property	8,000
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (first offense)	4,000
14 U.S.C. 645(i)	Confidentiality of Medical Quality Assurance Records (subsequent offenses)	30,000
16 U.S.C. 4711(g)(1)	Aquatic Nuisance Species in Waters of the United States	35,000
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels	3,000
19 U.S.C. 70	Obstruction of Revenue Officers by Masters of Vessels-Minimum Penalty	700
19 U.S.C. 1581(d)	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge [1]	5,000
19 U.S.C. 1581(d)	Failure to Stop Vessel When Directed; Master, Owner, Operator or Person in Charge-Minimum Penalty [1].	1,000
33 U.S.C. 471	Anchorage Ground/Harbor Regulations General	110

TABLE TO § 27.3—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. code citation	Civil monetary penalty description	2010 adjusted maximum penalty amount ($)
33 U.S.C. 474	Anchorage Ground/Harbor Regulations St. Mary's river	300
33 U.S.C. 495(b)	Bridges/Failure to Comply with Regulations [2]	25,000
33 U.S.C. 499(c)	Bridges/Drawbridges [2]	25,000
33 U.S.C. 502(c)	Bridges/Failure to Alter Bridge Obstructing Navigation [2]	25,000
33 U.S.C. 533(b)	Bridges/Maintenance and Operation [2]	25,000
33 U.S.C. 1208(a)	Bridge to Bridge Communication; Master, Person in Charge or Pilot	800
33 U.S.C. 1208(b)	Bridge to Bridge Communication; Vessel	800
33 U.S.C. 1232(a)	PWSA Regulations	40,000
33 U.S.C. 1236(b)	Vessel Navigation: Regattas or Marine Parades; Unlicensed Person in Charge	8,000
33 U.S.C. 1236(c)	Vessel Navigation: Regattas or Marine Parades; Owner Onboard Vessel	8,000
33 U.S.C. 1236(d)	Vessel Navigation: Regattas or Marine Parades; Other Persons	3,000
33 U.S.C. 1319	Pollution Prevention	40,000
33 U.S.C. 1319(2)(A)	Pollution Prevention (per violation)	15,000
33 U.S.C. 1319(2)(A)	Pollution Prevention (Maximum—repeated violations)	40,000
33 U.S.C. 1319(2)(B)	Pollution Prevention (per day of violation)	15,000
33 U.S.C. 1319(2)(B)	Pollution Prevention (Maximum—repeated violations)	190,000
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I per violation)	15,000
33 U.S.C. 1321(b)(6)(B)(i)	Oil/Hazardous Substances: Discharges (Class I total under paragraph)	40,000
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II per day of violation)	15,000
33 U.S.C. 1321(b)(6)(B)(ii)	Oil/Hazardous Substances: Discharges (Class II total under paragraph)	190,000
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per day of violation) Judicial Assessment	40,000
33 U.S.C. 1321(b)(7)(A)	Oil/Hazardous Substances: Discharges (per barrel of oil or unit discharged) Judicial Assessment.	1,100
33 U.S.C. 1321(b)(7)(B)	Oil/Hazardous Substances: Failure to Carry Out Removal/Comply With Order (Judicial Assessment).	40,000
33 U.S.C. 1321(b)(7)(C)	Oil/Hazardous Substances: Failure to Comply with Regulation Issued Under 1321(j) (Judicial Assessment).	40,000
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence (per barrel of oil or unit discharged) Judicial Assessment.	4,000
33 U.S.C. 1321(b)(7)(D)	Oil/Hazardous Substances: Discharges, Gross Negligence-Minimum Penalty (Judicial Assessment).	130,000
33 U.S.C. 1322(j)	Marine Sanitation Devices; Operating	3,000
33 U.S.C. 1322(j)	Marine Sanitation Devices; Sale or Manufacture	8,000
33 U.S.C. 1608(a)	International Navigation Rules; Operator	8,000
33 U.S.C. 1608(b)	International Navigation Rules; Vessel	8,000
33 U.S.C. 1908(b)(1)	Pollution from Ships; General	40,000
33 U.S.C. 1908(b)(2)	Pollution from Ships; False Statement	8,000
33 U.S.C. 2072(a)	Inland Navigation Rules; Operator	8,000
33 U.S.C. 2072(b)	Inland Navigation Rules; Vessel	8,000
33 U.S.C. 2609(a)	Shore Protection; General	40,000
33 U.S.C. 2609(b)	Shore Protection; Operating Without Permit	15,000
33 U.S.C. 2716a(a)	Oil Pollution Liability and Compensation	40,000
42 U.S.C. 9609(a)	Hazardous Substances, Releases, Liability, Compensation (Class I)	35,000
42 U.S.C. 9609(b)	Hazardous Substances, Releases, Liability, Compensation (Class II)	35,000
42 U.S.C. 9609(b)	Hazardous Substances, Releases, Liability, Compensation (Class II subsequent offense).	100,000
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment)	35,000
42 U.S.C. 9609(c)	Hazardous Substances, Releases, Liability, Compensation (Judicial Assessment subsequent offense).	100,000
46 U.S.C. App 1505(a)(2)	Safe Containers for International Cargo	8,000
46 U.S.C. App 1712(a)	International Ocean Commerce Transportation-Common Carrier Agreements per violation.	6,000
46 U.S.C. App 1712(a)	International Ocean Commerce Transportation-Common Carrier Agreements per violation—Willfull violation.	30,000
46 U.S.C. App 1712(b)	International Ocean Commerce Transportation-Common Carrier Agreements-Fine for tariff violation (per shipment).	60,000
46 U.S.C. App 1805(c)(2)	Suspension of Passenger Service	70,000
46 U.S.C. 2110(e)	Vessel Inspection or Examination Fees	8,000
46 U.S.C. 2115	Alcohol and Dangerous Drug Testing	7,000
46 U.S.C. 2302(a)	Negligent Operations: Recreational Vessels	6,000
46 U.S.C. 2302(a)	Negligent Operations: Other Vessels	30,000
46 U.S.C. 2302(c)(1)	Operating a Vessel While Under the Influence of Alcohol or a Dangerous Drug	7,000
46 U.S.C. 2306(a)(4)	Vessel Reporting Requirements: Owner, Charterer, Managing Operator, or Agent	8,000
46 U.S.C. 2306(b)(2)	Vessel Reporting Requirements: Master	1,100
46 U.S.C. 3102(c)(1)	Immersion Suits	8,000
46 U.S.C. 3302(i)(5)	Inspection Permit	1,100
46 U.S.C. 3318(a)	Vessel Inspection; General	8,000
46 U.S.C. 3318(g)	Vessel Inspection; Nautical School Vessel	8,000
46 U.S.C. 3318(h)	Vessel Inspection; Failure to Give Notice IAW 3304(b)	1,100

TABLE TO § 27.3—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. code citation	Civil monetary penalty description	2010 adjusted maximum penalty amount ($)
46 U.S.C. 3318(i)	Vessel Inspection; Failure to Give Notice IAW 3309(c)	1,100
46 U.S.C. 3318(j)(1)	Vessel Inspection; Vessel ≥ 1600 Gross Tons	15,000
46 U.S.C. 3318(j)(1)	Vessel Inspection; Vessel < 1600 Gross Tons	3,000
46 U.S.C. 3318(k)	Vessel Inspection; Failure to Comply with 3311(b)	15,000
46 U.S.C. 3318(l)	Vessel Inspection; Violation of 3318(b)–3318(f)	8,000
46 U.S.C. 3502(e)	List/count of Passengers	110
46 U.S.C. 3504(c)	Notification to Passengers	15,000
46 U.S.C. 3504(c)	Notification to Passengers; Sale of Tickets	800
46 U.S.C. 3506	Copies of Laws on Passenger Vessels; Master	300
46 U.S.C. 3718(a)(1)	Liquid Bulk/Dangerous Cargo	40,000
46 U.S.C. 4106	Uninspected Vessels	8,000
46 U.S.C. 4311(b)(1)	Recreational Vessels (maximum for related series of violations)	300,000
46 U.S.C. 4311(b)(1)	Recreational Vessels; Violation of 4307(a)	6,000
46 U.S.C. 4311(c)	Recreational Vessels	1,100
46 U.S.C. 4507	Uninspected Commercial Fishing Industry Vessels	8,000
46 U.S.C. 4703	Abandonment of Barges	1,100
46 U.S.C. 5116(a)	Load Lines	8,000
46 U.S.C. 5116(b)	Load Lines; Violation of 5112(a)	15,000
46 U.S.C. 5116(c)	Load Lines; Violation of 5112(b)	8,000
46 U.S.C. 6103(a)	Reporting Marine Casualties	35,000
46 U.S.C. 6103(b)	Reporting Marine Casualties; Violation of 6104	8,000
46 U.S.C. 8101(e)	Manning of Inspected Vessels; Failure to Report Deficiency in Vessel Complement	1,100
46 U.S.C. 8101(f)	Manning of Inspected Vessels	15,000
46 U.S.C. 8101(g)	Manning of Inspected Vessels; Employing or Serving in Capacity not Licensed by USCG.	15,000
46 U.S.C. 8101(h)	Manning of Inspected Vessels; Freight Vessel < 100 GT, Small Passenger Vessel, or Sailing School Vessel.	1,100
46 U.S.C. 8102(a)	Watchmen on Passenger Vessels	1,100
46 U.S.C. 8103(f)	Citizenship Requirements	800
46 U.S.C. 8104(i)	Watches on Vessels; Violation of 8104(a) or (b)	15,000
46 U.S.C. 8104(j)	Watches on Vessels; Violation of 8104(c), (d), (e), or (h)	15,000
46 U.S.C. 8302(e)	Staff Department on Vessels	110
46 U.S.C. 8304(d)	Officer's Competency Certificates	110
46 U.S.C. 8502(e)	Coastwise Pilotage; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	15,000
46 U.S.C. 8502(f)	Coastwise Pilotage; Individual	15,000
46 U.S.C. 8503	Federal Pilots	40,000
46 U.S.C. 8701(d)	Merchant Mariners Documents	800
46 U.S.C. 8702(e)	Crew Requirements	15,000
46 U.S.C. 8906	Small Vessel Manning	35,000
46 U.S.C. 9308(a)	Pilotage: Great Lakes; Owner, Charterer, Managing Operator, Agent, Master or Individual in Charge.	15,000
46 U.S.C. 9308(b)	Pilotage: Great Lakes; Individual	15,000
46 U.S.C. 9308(c)	Pilotage: Great Lakes; Violation of 9303	15,000
46 U.S.C. 10104(b)	Failure to Report Sexual Offense	8,000
46 U.S.C. 10314(a)(2)	Pay Advances to Seamen	800
46 U.S.C. 10314(b)	Pay Advances to Seamen; Remuneration for Employment	800
46 U.S.C. 10315(c)	Allotment to Seamen	800
46 U.S.C. 10321	Seamen Protection; General	7,000
46 U.S.C. 10505(a)(2)	Coastwise Voyages: Advances	7,000
46 U.S.C. 10505(b)	Coastwise Voyages: Advances; Remuneration for Employment	7,000
46 U.S.C. 10508(b)	Coastwise Voyages: Seamen Protection; General	7,000
46 U.S.C. 10711	Effects of Deceased Seamen	300
46 U.S.C. 10902(a)(2)	Complaints of Unfitness	800
46 U.S.C. 10903(d)	Proceedings on Examination of Vessel	110
46 U.S.C. 10907(b)	Permission to Make Complaint	800
46 U.S.C. 11101(f)	Accommodations for Seamen	800
46 U.S.C. 11102(b)	Medicine Chests on Vessels	800
46 U.S.C. 11104(b)	Destitute Seamen	110
46 U.S.C. 11105(c)	Wages on Discharge	800
46 U.S.C. 11303(a)	Log Books; Master Failing to Maintain	300
46 U.S.C. 11303(b)	Log Books; Master Failing to Make Entry	300
46 U.S.C. 11303(c)	Log Books; Late Entry	200
46 U.S.C. 11506	Carrying of Sheath Knives	80
46 U.S.C. 12151(a)	Documentation of Vessels (violation per day)	15,000
46 U.S.C. 12151(c)	Engaging in Fishing After Falsifying Eligibility (fine per day)	130,000
46 U.S.C. 12309(a)	Numbering of Undocumented Vessels—Willfull violation	6,000
46 U.S.C. 12309(b)	Numbering of Undocumented Vessels	1,100
46 U.S.C. 12507(b)	Vessel Identification System	15,000

TABLE TO § 27.3—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. code citation	Civil monetary penalty description	2010 adjusted maximum penalty amount ($)
46 U.S.C. 14701	Measurement of Vessels	30,000
46 U.S.C. 14702	Measurement; False Statements	30,000
46 U.S.C. 31309	Commercial Instruments and Maritime Liens	15,000
46 U.S.C. 31330(a)(2)	Commercial Instruments and Maritime Liens; Mortgagor	15,000
46 U.S.C. 31330(b)(2)	Commercial Instruments and Maritime Liens; Violation of 31329	35,000
46 U.S.C. 70119	Port Security	30,000
46 U.S.C. 70119(b)	Port Security-Continuing Violations	50,000
49 U.S.C. 5123(a)(1)	Hazardous Materials: Related to Vessels-Maximum Penalty	60,000
49 U.S.C. 5123(a)(1)	Hazardous Materials: Related to Vessels-Minimum Penalty	300
49 U.S.C. 5123(a)(2)	Hazardous Materials: Related to Vessels-Penalty from Fatalities, Serious Injuries/Illness or Substantial Damage to Property.	110,000

Note: The changes in Civil Penalties for calendar year 2010, shown above, are based on the change in CPI–U from June 2008 to June 2009. The recorded change in CPI–U during that period was −1.43 percent. Because of the small change in CPI–U and the required rules for rounding, there was no change to any of the maximum penalty amounts from the previous adjustment.

[1] Enacted under the Tariff Act of 1930, exempt from inflation adjustments.

[2] These penalties increased in accordance with the statute to $10,000 in 2005, $15,000 in 2006, $20,000 in 2007, and $25,000 in 2008 and thereafter.

PART 51—COAST GUARD DISCHARGE REVIEW BOARD

■ 31. The authority citation for part 51 continues to read as follows:

Authority: 10 U.S.C. 1553; Pub. L. 107–296, 116 Stat. 2135.

§ 51.9 [Amended]

■ 32. In § 51.9(b), remove the phrase "(G–WPM), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593" and add, in its place, the phrase "(CG–12), 2100 2nd St., SW., Stop 7801, Washington, DC 20593–7801".

PART 67—AIDS TO NAVIGATION ON ARTIFICIAL ISLANDS AND FIXED STRUCTURES

■ 33. The authority citation for part 67 continues to read as follows:

Authority: 14 U.S.C. 85, 633; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

§ 67.10–25 [Amended]

■ 34. In § 67.10–25(a) introductory text, remove the phrase "U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593–0001" and add, in its place, the phrase "(CG–541), 2100 2nd St., SW., Stop 7581, Washington, DC 20593–7581".

PART 81—72 COLREGS: IMPLEMENTING RULES

■ 35. The authority citation for part 81 continues to read as follows:

Authority: 33 U.S.C. 1607; E.O. 11964; 49 CFR 1.46.

§ 81.18 [Amended]

■ 36. In § 81.18(b), remove the phrase "2100 Second Street, SW., Washington, D.C. 20593–0001" and add, in its place, the phrase "(CG–5), 2100 2nd St., SW., Stop 7355, Washington, DC 20593–7355".

PART 84—ANNEX I: POSITIONING AND TECHNICAL DETAILS OF LIGHTS AND SHAPES

■ 37. The authority citation for part 84 continues to read as follows:

Authority: 33 U.S.C. 2071; Department of Homeland Security Delegation No. 0170.1.

§ 84.13 [Amended]

■ 38. In § 84.13(a), remove the phrase "2100 Second Street, SW., Washington, D.C. 20593–0001" and add, in its place, the phrase "(CG–432), 2100 2nd St., SW., Stop 7901, Washington, DC 20593–7901".

PART 89—INLAND NAVIGATION RULES: IMPLEMENTING RULES

■ 39. The authority citation for part 89 continues to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.46(n)(14).

§ 89.18 [Amended]

■ 40. In § 89.18(a), remove the phrase "2100 Second Street, SW., Washington, D.C. 20593–0001" and add, in its place, the phrase "(CG–5), 2100 2nd St. SW., Stop 7355, Washington, DC 20593–7355".

PART 96—RULES FOR THE SAFE OPERATION OF VESSELS AND SAFETY MANAGEMENT SYSTEMS

■ 41. The authority citation for part 96 continues to read as follows:

Authority: 46 U.S.C. 3201 et seq.; 46 U.S.C. 3103; 46 U.S.C. 3316, 33 U.S.C. 1231; 49 CFR 1.45, 49 CFR 1.46.

■ 42. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add, in its place, the text indicated in the right column:

Section	Remove	Add
96.130(a)	(G–MSE), 2100 Second St., SW., Washington, DC 20593–0001.	(CG–521), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126.
96.400(b)	(G–MSE), 2100 Second St., SW., Washington, DC 20593–0001.	(CG–521), 2100 2nd St., SW., Stop 7126, Washington, DC 20593–7126.
96.430(a) introductory text	(G–MSE), Office of Design and Engineering Standards, 2100 Second Street, SW, Washington, DC 20593–0001.	(CG–521), Office of Design and Engineering Standards, 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126.
96–460(a)(3)	G–MOC	CG–543.
96–495(a),(b)&(c)	G–MOC	CG–543.

PART 101—MARITIME SECURITY: GENERAL

■ 43. The authority citation for part 101 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 192; Executive Order 12656, 3 CFR 1988 Comp., p. 585; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

§ 101.115 [Amended]

■ 44. In § 101.115(a), remove the phrase "2100 Second Street, SW., Washington, DC 20593–0001" and add, in its place, the phrase "2100 2nd St., SW., Stop 7581, Washington, DC 20593–7581".

PART 104—MARITIME SECURITY: VESSELS

■ 45. The authority citation for part 104 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

§ 104.130 [Amended]

■ 46. In § 104.130, remove the phrase "2100 Second Street SW., Washington, D.C. 20593" and add, in its place, the phrase "2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581".

§ 104.400 [Amended]

■ 47. In § 104.400(b), remove the phrase "JR10–0525, 2100 2nd Street, SW., Washington, D.C. 20593" and add, in its place, the phrase "2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102".

PART 105—MARITIME SECURITY: FACILITIES

■ 48. The authority citation for part 105 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. 70103; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

§ 105.130 [Amended]

■ 49. In § 105.130, remove the phrase "2100 Second Street SW., Washington, D.C. 20593" and add, in its place, the phrase "2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581".

PART 110—ANCHORAGE REGULATIONS

■ 50. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3703; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1. Sections 155.100 through 155.130, 150.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) are also issued under 33 U.S.C. 1903(b). Section 155.490 also issued under section 4110(b) of Pub. L. 101–380. Sections 155.1110 through 155.1150 also issued under 33 U.S.C. 2735.

■ 51. In § 110.60:

■ a. Revise paragraphs (a)(1), (a)(12), (a)(16), (b)(5), and (c)(6) introductory text;

■ b. Redesignate the note following paragraph (a)(2) as "Note to paragraph (a)(2)";

■ c. Redesignate the note following paragraph (a)(13) as "Note to paragraph (a)(13)";

■ d. Redesignate the note following paragraph (b)(6) as "Note to paragraphs (b)(5) and (6)";

■ e. Redesignate the note following paragraph (c)(3) as "Note to to paragraph (c)(3)";

■ f. Redesignate the note following paragraph (c)(6) as "Note to paragraphs (c)(5) and (6)";

■ g. Redesignate the note following paragraph (d)(3) as "Note to paragraph (d)(3)"; and

■ h. Redesignate the note following paragraph (d)(5) as "Note to paragraph (d)(5)".

The revisions read as follows:

§ 110.60 Captain of the Port, New York.

(a) * * *

(1) *Glen Island.* All waters surrounding Glen Island bound by the following points: 40°52′53.1″ N, 073°46′58.9″ W; thence to 40°52′46.6″ N, 073°47′02.7″ W; thence to 40°53′01.3″ N, 073°47′22.6″ W; thence to a line drawn from 40°53′24.4″ N, 073°46′56.7″ W to 40°53′20.6″ N, 073°46′51.2″ W, excluding all waters within 25 feet of the 50-foot channel west and south of Glen Island.

* * * * *

(12) *Manhasset Bay, Plandome.* All waters bound by the following points: 40°48′41.6″ N, 073°42.31.7″ W; thence to 40°48′43.6″ N, 073°42′42.5″ W; thence to 40°48′29.0″ N, 073°42′44.4″ W; thence to 40°48′27.3″ N, 073°42′35.6″ W; thence along the shoreline to the point of origin.

* * * * *

(16) *Hempstead Harbor, Sea Cliff.* All waters bound by the following points: 40°51′16.7″ N, 073°38′51.9″ W; thence to 40°51′12.9″ N, 073°39′07.2″ W; thence to 40°51′03.6″ N, 073°39′31.6″ W; thence to 40°50′24.7″ N, 073°39′26.4″ W; thence to 40°50′22.0″ N, 073°39′10.2″ W; thence along the shoreline to the point of origin.

(b) * * *

(5) *Flushing Bay, Southwest Area.* All waters bound by the following points: 40°45′36.7″ N, 073°51′16.3″ W; thence to 40°45′48.5″ N, 073°50′58.4″ W; thence to 40°45′51.3″ N, 073°50′59.2″ W; thence to 40°45′49.4″ N, 073°51′07.5″ W; thence to 40°45′58.7″ N, 073°51′13.4″ W; thence to 40°46′02.1″ N, 073°51′20.1″ W; thence to 40°45′54.8″ N, 073°51′28.7″ W; thence to 40°45′46.2″ N, 073°51′35.3″ W; thence northward along the shoreline and breakwater to the point of origin.

* * * * *

(c) * * *

(6) *Yonkers, JFK Marina.* All waters bound by the following points: 40°57′28.5″ N, 073°53′46.0″ W; thence to 40°57′30.5″ N, 073°53′56.8″ W; thence to 40°57′07.5″ N, 073°54′06.2″ W; thence to 40°57′06.0″ N, 073°53′59.5″ W; thence along the shoreline to the point of origin.

* * * * *

§ 110.228 [Amended]

■ 52. In § 110.228—

■ a. In paragraph (a)(4), after the text "latitude 46°00′36.82″ N,", add the text "longitude 122°51′30.90″ W; thence continuing west-northwesterly to latitude 46°00′51.32″ N,";

■ b. In paragraph (a)(5), after the text "thence continuing south-southeasterly to latitude", remove the coordinate "45°53′21.16″ N" and add, in its place, the coordinate "45°53′27.16″ N"; and after the text "thence continuing northwesterly to latitude 45°53′41.50″ N, longitude", remove the coordinate "12°48′13.53″ W" and add, in its place, the coordinate "122°48′13.53″ W"; and

■ c. In paragraph (a)(7), after the text "thence continuing northerly to latitude 45°41′29.07″ N, longitude", remove the coordinate "12°46′26.15″ W"; and add, in its place, the coordinate "122°46′26.15″ W."

PART 114—GENERAL

■ 53. The authority citation for part 114 continues to read as follows:

Authority: 33 U.S.C. 401, 406, 491, 494, 495, 499, 502, 511, 513, 514, 516, 517, 519, 521, 522, 523, 525, 528, 530, 533, and 535(c), (e), and (h); 14 U.S.C. 633; 49 U.S.C. 1655(g); Pub. L. 107–296, 116 Stat. 2135; 33 CFR 1.05–1 and 1.01–60, Department of Homeland Security Delegation Number 0170.1.

§ 114.05 [Amended]

■ 54. Amend § 114.05 as follows:

■ a. In paragraph (g), remove the text "20593" and add, in its place, the text "20593–7000".

■ b. In paragraph (l), remove the phrase "Assistant Commandant for Operations" and replace with "Deputy Commandant for Operations"; and remove the phrase "Office of Navigation Safety and Waterway Services" and replace with "Director of Marine Transportation Systems Management, (CG–55)".

§ 114.50 [Amended]

■ 55. In § 114.50, remove the phrase "2100 Second Street SW., Washington, DC 20593–0001" and add, in its place, the phrase "(CG–5411), 2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581".

PART 116—ALTERATION OF UNREASONABLY OBSTRUCTIVE BRIDGES

■ 56. The authority citation for part 116 continues to read as follows:

Authority: 33 U.S.C. 401, 521; 49 U.S.C. 1655(g); 49 CFR 1.4, 1.46(c).

§ 116.55 [Amended]

■ 57. Amend § 116.55 as follows:

■ a. In paragraph (a) and (b), remove the phrase "Assistant Commandant for Operations" and add, in its place, the phrase "Deputy Commandant for Operations"; and

■ b. In paragraph (b), remove the phrase "2100 Second Street, SW., Washington, DC 20593–0001" and add, in its place, the phrase "(CG–3), 2100 2nd St. SW., Stop 7238, Washington, DC 20593–7238".

PART 118—BRIDGE LIGHTING AND OTHER SIGNALS

■ 58. The authority citation for part 118 continues to read as follows:

Authority: 33 U.S.C. 494; 14 U.S.C. 85, 633; Department of Homeland Security Delegation No. 0170.1.

§ 118.3 [Amended]

■ 59. In § 118.3(b), remove the phrase "room 3500, 2100 Second Street, SW., Washington, DC 20593–0001" and add, in its place, the phrase "(CG–5411), 2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581".

PART 120—SECURITY OF PASSENGER VESSELS

■ 60. The authority citation for part 120 continues to read as follows:

Authority: 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.

§ 120.120 [Amended]

■ 61. In § 120.120(a), remove the phrase "(G–MES), 2100 Second Street SW., Washington, DC" and add, in its place, the phrase "(CG–521), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126".

§ 120.220 [Amended]

■ 62. In § 120.220(b), remove the phrase "(G–MOR), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001" and add, in its place, the phrase "(CG–533), 2100 2nd St. SW., Stop 7363, Washington, DC 20593–7363"; and remove the phrase "(G–MOR) by fax" and add, in its place, the phrase "(CG–533) by fax".

§ 120.305 [Amended]

■ 63. In § 120.305(a), remove the phrase "JR10–0525, 2100 2nd Street, SW., Washington, DC 20593" and add, in its place, the phrase "2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102".

PART 126—HANDLING OF DANGEROUS CARGO AT WATERFRONT FACILITIES

■ 64. The authority citation for part 126 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

§ 126.5 [Amended]

■ 65. In § 126.5(a), remove the phrase "(G–MSO–2), room 1210, 2100 Second Street SW., Washington, DC 20593–0001" and add, in its place, the phrase "(CG–522), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126".

PART 127—WATERFRONT FACILITIES HANDLING LIQUEFIED NATURAL GAS AND LIQUEFIED HAZARDOUS GAS

■ 66. The authority citation for part 127 continues to read as follows:

Authority: 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.1.

§ 127.003 [Amended]

■ 67. In § 127.003(a), remove the phrase "(G–MOC), Room 1108, 2100 Second Street SW., Washington, DC 20593–0001" and add, in its place, the phrase "(CG–543), 2100 2nd St., SW., Stop 7581, Washington, DC 20593–7581".

§ 127.015 [Amended]

■ 68. In § 127.015(c)(1), remove the phrase "Washington, DC 20593–0001" and add, in its place, the phrase "(CG–5), 2100 2nd St., SW., Stop 7355, Washington, DC 20593–7355".

PART 128—SECURITY OF PASSENGER TERMINALS

■ 69. The authority citation for part 128 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

§ 128.120 [Amended]

■ 70. In § 128.120(a), remove the phrase "(G–MSE), 2100 Second Street, SW., Washington, DC" and add, in its place, the phrase "(CG–521), 2100 2nd St., SW., Stop 7126, Washington, DC 20593–7126".

PART 135—OFFSHORE OIL POLLUTION COMPENSATION FUND

■ 71. The authority citation for part 135 continues to read as follows:

Authority: 33 U.S.C. 2701–2719; E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1, para. 2(80).

§ 135.305 [Amended]

■ 72. In § 135.305(a)(1), remove the phrase "Room 2111, 2100 Second Street, SW., Washington, DC 20593–0001" and add, in its place, the phrase "(CG–3112), 2100 2nd St. SW., Stop 7238, Washington, DC 20593–7238".

PART 140—GENERAL

■ 73. The authority citation for part 140 continues to read as follows:

Authority: 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.

§ 140.7 [Amended]

■ 74. In § 140.7(a), remove the phrase "(G–MOC), 2100 Second Street, SW., Washington, DC 20593–0001" and add, in its place, the phrase "(CG–543), 2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581".

§ 140.15 [Amended]

■ 75. In § 140.15(b), remove the phrase "(G–MSE), U.S. Coast Guard, Washington, DC 20593–0001" and add, in its place, the phrase "(CG–521), 2100 2nd St., SW., Stop 7126, Washington, DC 20593–7126".

PART 141—PERSONNEL

■ 76. The authority citation for part 141 continues to read as follows:

Authority: 43 U.S.C. 1356; 46 U.S.C. 70105; 49 CFR 1.46(z).

§ 141.20 [Amended]

■ 77. In § 141.20(c), remove the phrase "(G–MOC), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C. 20593" and add, in its place, the phrase "(CG–543), 2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581".

PART 144—LIFESAVING APPLIANCES

■ 78. The authority citation for part 144 continues to read as follows:

Authority: 43 U.S.C. 1333d; 46 U.S.C. 3102(a); 46 CFR 1.46.

§ 144.30–5 [Amended]

■ 79. In § 144.30–5(a), remove the phrase "(G–MSE), Washington, DC 20593–0001" and add, in its place, the phrase "(CG–521), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126".

PART 148—DEEPWATER PORTS: GENERAL

■ 80. The authority citation for part 148 continues to read as follows:

Authority: 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

■ 81. In part 148, remove the phrase "(G–P)" from wherever it appears, and add, in its place, the phrase "(CG–5)".

■ 82. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears in the section, and add, in its place, the text indicated in the right column:

Section	Remove	Add
148.5	G–PSO	CG–522.
148.115(a)	(G–PSO), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.	(CG–522), 2100 2nd St., SW., Stop 7126, Washington, DC 20593–7126.

PART 149—DEEPWATER PORTS: DESIGN, CONSTRUCTION, AND EQUIPMENT

■ 83. The authority citation for part 149 continues to read as follows:

Authority: 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

■ 84. In part 149, remove the phrase "(G–P)" from wherever it appears, and add, in its place, the phrase "(CG–5)".

PART 150—DEEPWATER PORTS: OPERATIONS

■ 85. The authority citation for part 150 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), (m)(2); 33 U.S.C. 1509(a); E.O. 12777, sec. 2; E.O. 13286, sec. 34, 68 FR 10619; Department of Homeland Security Delegation No. 0170.1(70), (73), (75), (80).

■ 86. In part 150, remove the phrase "(G–P)" from wherever it appears, and add, in its place, the phrase "(CG–5)".

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

■ 87. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321, 1902, 1903, 1908; 46 U.S.C. 6101; Pub. L. 104–227 (110 Stat. 3034); Pub. L. 108–293 (118 Stat. 1063), § 623; E.O. 12777, 3 CFR, 1991 Comp. p. 351; DHS Delegation No. 0170.1, sec. 2(77).

■ 88. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears in the citation, and add, in its place, the text indicated in the right column:

Section	Remove	Add
151.27(b)	2100 Second Street, SW., Washington, DC 20593–0001.	2100 2nd St., SW., Stop 7581, Washington, DC 20593–7581.
151.66(c)(3)(iv)(C)	CGHQ Room 1210, 2100 Second Street, SW, Washington, DC 20593–0001.	2100 2nd St., SW., Stop 7126, Washington, DC 20593–7126.
151.1012(a) introductory text	2100 Second Street, SW., Washington, DC 20593–0001.	2100 2nd St., SW., Stop 7581, Washington, DC 20593–7581.
151.1021(b)(1)	2100 Second Street, SW., Washington, DC 20593–0001.	2100 2nd St., SW., Stop 7355, Washington, DC 20593–7355.
151.1510(a)(3)	(G–M), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.	(CG–5), 2100 2nd Street, SW., Stop 7355, Washington, DC 20593–7355.
Appendix to Subpart D of Part 151 (last paragraph).	2100 Second St., SW, Washington, DC 20593–0001.	2100 2nd St., SW. Stop 7126, Washington, DC 20593–7126.

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

■ 89. The authority citation for part 153 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 1321, 1903, 1908; 42 U.S.C. 9615; 46 U.S.C. 6101; E.O. 12580, 3 CFR, 1987 Comp., p. 193; E.O. 12777, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

§ 153.203 [Amended]

■ 90. In § 153.203, remove the phrase "Room 2111, 2100 Second Street, SW., Washington, DC 20593–0001" and add, in its place, the phrase "2100 2nd St., SW., Stop 7238, Washington, DC 20593–7238".

§ 153.411 [Amended]

■ 91. In § 153.411, remove the phrase "(G–L), 2100 Second Street, SW., Washington, D.C. 20593" and add, in its place, the phrase "(CG–094), 2100 2nd St., SW., Stop 7238, Washington, DC 20593–7238".

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

■ 92. The authority citation for part 154 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6), and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; Department of Homeland Security Delegation No. 0170.1. Subpart F is also issued under 33 U.S.C. 2735.

■ 93. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears in the citation, and add, in its place, the text indicated in the right column:

Section	Remove	Add
154.106(a)	2100 Second Street, SW., Washington, DC 20593–0001.	2100 2nd St., SW., Stop 7363, Washington, DC 20593–7363.
154.800(b)	G–MSO	CG–522.
154.802	G–MSO	CG–522.
154.806(a), (b) introductory text, (d), and the section note.	G–MSO	Stop 7363, Washington, DC 20593–7363.
154.822(a)(2), (b)	G–MSO	CG–522.
154.826(a)(3)	G–MSO	CG–522.
154.828(a)(3)	G–MSO	CG–522.
154.1075(d)	G–MOR	CG–535.
Appendix A to Part 154 introductory text	G–MSO	CG–522.
Appendix C to Part 154, 6.3.2	(G–MOR), Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.	(CG–535), 2100 2nd St., SW., Stop 7363, Washington, DC 20593–7363.

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

■ 94. The authority citation for part 155 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3703; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1. Sections 155.100 through 155.130, 150.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) are also issued under 33 U.S.C. 1903(b). Section 155.490 also issued under section 4110(b) of Pub. L. 101–380. Sections 155.1110 through 155.1150 also issued under 33 U.S.C. 2735.

PART 155—[AMENDED]

■ 95. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears in the citation, and add, in its place, the text indicated in the right column:

Section	Remove	Add
155.140(a)	2100 Second Street, SW., Washington, DC 20593–0001.	(CG–543), 2100 2nd St., SW., Stop 7581, Washington, DC 20593–7581.
155.230(b)(3)	(G–MSE)	(CG–521).
155.1035(b)(5)(i) introductory text	2100 Second Street, SW., Washington, DC 20593–0001.	2100 2nd St., SW., Stop 7126, Washington, DC 20593–7126.
155.1065(a)&(h)	2100 Second Street, SW., Washington, DC 20593–0001.	2100 2nd St., SW., Stop 7581, Washington, DC 20593–7581.
155.1070(f) introductory text	2100 Second Street, SW., Washington, DC 20593–0001.	2100 2nd St., SW., Stop 7581, Washington, DC 20593–7581.
Appendix B to part 155, 6.5	2100 Second Street, SW., Washington, DC 20593.	2100 2nd St.,SW., Stop 7581, Washington, DC 20593–7581.

§ 155.1020 [Amended]

■ 96. In § 155.1020, in the definition for "Contract or other approved means", in paragraph (5)(ii), remove the text "155.1050(l)", and add, in its place, the text "155.1050(j)"; and in paragraph (5)(iii), remove the text "155.1050(k)" and add, in its place, the text "155.1050(j)".

§ 155.1035 [Amended]

■ 97. In § 155.1035, in paragraph (e)(6)(i), remove the text "155.1050(l)" and add, in its place, the text "155.1050(j)"; and in paragraph (e)(6)(ii), remove the text "155.1050(k)" and add, in its place, the text "155.1050(j)".

§ 155.1040 [Amended]

■ 98. In § 155.1040, in paragraph (e)(5)(i), remove the text "155.1050(l)" and add, in its place, the text "155.1050(j)"; and in paragraph (e)(5)(ii), remove the text "155.1050(k)" and add, in its place, the text "155.1050(j)".

§ 155.4030 [Amended]

■ 99. In § 155.4030(g), remove the number "0.16" and add, in its place, the number "0.016".

■ 100. Revise § 155.4035(b)(1) to read as follows:

§ 155.4035 Required pre-incident information and arrangements for the salvage and marine firefighting resource providers listed in response plans.

* * * * *

(b) * * *

(1) You must prepare a vessel pre-fire plan in accordance with NFPA 1405, Guide for Land-Based Firefighters Who Respond to Marine Vessel Fires, Chapter 9 (Incorporation by reference, *see* § 155.140). If the planholder's vessel pre-fire plan is one that meets another regulation, such as SOLAS Chapter II–2, Regulation 15, or international standard, a copy of that specific fire plan must also be given to the resource provider(s) instead of the NFPA 1405 pre-fire plan, and be attached to the VRP.

* * * * *

PART 156—OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS

■ 101. The authority citation for part 156 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3703a, 3715; E.O. 11735, 3 CFR 1971–1975 Comp., p. 793. Section 156.120(bb) is also issued under 46 U.S.C. 3703.

§ 156.111 [Amended]

■ 102. In § 156.111(a), remove the phrase "2100 Second Street, SW, Washington, DC 20593–0001" and add, in its place, the phrase "2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581".

§ 156.210 [Amended]

■ 103. In § 156.210(b), remove the phrase "(G–M)" and add, in its place, the phrase "(CG–5)".

PART 157—RULES FOR THE PROTECTION OF THE MARINE ENVIRONMENT RELATING TO TANK VESSELS CARRYING OIL IN BULK

■ 104. The authority citation for part 157 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3703, 3703a (note); Department of Homeland Security Delegation No. 0170.1. Subparts G, H, and I are also issued under section 4115(b), Pub. L. 101–380, 104 Stat. 520; Pub. L. 104–55, 109 Stat. 546.

■ 105. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears in the citation, and add, in its place, the text indicated in the right column:

Section	Remove	Add
157.02(a)	2100 Second Street, SW., Washington, DC 20593–0001.	2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126.
157.04(b)&(d)(5)	Washington, DC 20593–0001	2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581.
157.06(c)	Washington, DC 20593–0001	2100 2nd St. SW., Stop 7355, Washington, DC 20593–7355.
157.100(b)	2100 2nd Street, SW., Jemal Building, JR10–0525, Washington, DC 20593–0001.	2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102.
157.102 introductory text	Washington, DC 20593–0001	2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581.
157.144(a)	Washington, D.C. 20593–0001	2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581.
157.147(a)	Washington, D.C. 20593–0001	2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581.
157.200(b)	2100 2nd Street, SW., Jemal Building, JR10–0525, Washington, DC 20593–0001.	2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102.
157.208	Washington, D.C. 20593–0001	2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581.
157.302(a)	Washington, D.C. 20593–0001	2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581.
157.306(c)	Washington, DC 20593–0001	2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581.

Appendix A to Part 157 [Amended]

■ 106. In Appendix A to Part 157, in the second row of the second column of the first table, remove the text "B— or 11.5 m, whichever is 5 less." and add, in its place, the text "B/5— or 11.5 m, whichever is less."

PART 158—RECEPTION FACILITIES FOR OIL, NOXIOUS LIQUID SUBSTANCES, AND GARBAGE

■ 107. The authority citation for part 158 is revised to read as follows:

Authority: 33 U.S.C. 1903(b), 1905(c); 49 CFR 1.46.

§ 158.160 [Amended]

■ 108. In § 158.160(e) introductory text, remove the word "until" and add, in its place, the words "for a period of five years or until".

§ 158.190 [Amended]

■ 109. In § 158.190(c)(1), remove the phrase "Washington, DC, 20593" and add, in its place, the phrase "(CG–5), 2100 2nd St. SW., Stop 7355, Washington, DC 20593–7355".

PART 159—MARINE SANITATION DEVICES

■ 110. The authority citation for part 159 continues to read as follows:

Authority: 33 U.S.C. 1322(b)(1); 49 CFR 1.45(b). Subpart E also issued under authority of sec. 1(a)(4), Pub. L. 106–554, 114 Stat. 2763; Department of Homeland Security Delegation No. 0170.1.

■ 111. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears in the citation, and add, in its place, the text indicated in the right column:

Section	Remove	Add
159.4(a)	2100 2nd Street, SW., Jemal Building, JR10–0525, Washington, DC 20593–0001.	2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102.
159.12(c) introductory text	2100 2nd Street, SW., Jemal Building, JR10–0525, Washington, DC 20593–0001.	2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102.
159.15(a) introductory text and (c)	2100 2nd Street, SW., Jemal Building, JR10–0525, Washington, DC 20593–0001.	2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102.
159.17(a)	2100 2nd Street, SW., Jemal Building, JR10–0525, Washington, DC 20593–0001.	2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102.
159.17(c)	(G–MSE), U.S. Coast Guard, Washington, D.C. 20593–0001.	(CG–52), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126.
159.19(a)	2100 2nd Street, SW., Jemal Building, JR10–0525, Washington, DC 20593–0001.	2100 2nd St. SW., Stop 7102, Washington, DC 20593–7102.

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

■ 112. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. Chapter 701; Department of Homeland Security Delegation No. 0170.1. Subpart C is also issued under the authority of 33 U.S.C. 1225 and 46 U.S.C. 3715.

■ 113. In § 160.3, revise the term for the definition for "Commanding Officer, Vessel Traffic Services" and place in appropriate alphabetical order to read as follows:

§ 160.3 Definitions.

* * * * *

Director, Vessel Traffic Services * * *

* * * * *

§ 160.5 [Amended]

■ 114. In § 160.5(d), in the first sentence, after the text "District Commander," remove the words "Commanding Officers" and add, in their place, the word "Directors".

§ 160.7 [Amended]

■ 115. In § 160.7(d), in the first sentence, remove the phrase "Washington, DC 20593" and add, in its place, the phrase "(CG–5), 2100 2nd St. SW., Stop 7355, Washington, DC 20593–7355".

PART 164—NAVIGATION SAFETY REGULATIONS

■ 116. The authority citation for part 164 continues to read as follows:

Authority: 33 U.S.C. 1222(5), 1223, 1231; 46 U.S.C. 2103, 3703; Department of Homeland Security Delegation No. 0170.1 (75). Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.61 also issued under 46 U.S.C. 6101.

§ 164.03 [Amended]

■ 117. In § 164.03(a), remove the phrase "2100 Second Street, SW., Washington, DC 20593–0001" and add, in its place, the phrase "2100 2nd St. SW., Stop 7355, Washington, DC 20593–7355".

§ 164.41 [Amended]

■ 118. In § 164.41(a)(3), remove the phrase "2100 Second Street SW., Washington, DC 20593–0001" and add, in its place, the phrase "(CG–3), 2100 2nd St. SW., Stop 7238, Washington, DC 20593–7238".

§ 164.72 [Amended]

■ 119. In § 164.72(a)(4)(i), remove the word "car-type" and add, in its place, the word "card-type".

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 120. The authority citation for part 165 is revised to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

■ 121. The authority citation for part 167 continues to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

■ 122. Revise § 167.151(a) to read as follows:

§ 167.151 Off New York: Precautionary areas.

(a) A circular precautionary area with a radius of 7 miles is established centered upon 40°27.50′ N, 73°49.90′ W.

* * * * *

■ 123. Revise the heading to § 167.153 to read as follows:

§ 167.153 Off New York: Eastern approach.

* * * * *

§ 167.155 [Amended]

■ 124. In § 167.155, remove the note after paragraph (c).

PART 169—SHIP REPORTING SYSTEMS

■ 125. The authority citation for part 169 continues to read as follows:

Authority: 33 U.S.C. 1230(d), 1231; 46 U.S.C. 70115, Department of Homeland Security Delegation No. 0170.1.

§ 169.15 [Amended]

■ 126. In § 169.15(a), remove the phrase "2100 Second Street, SW., Washington, DC 20593–0001" and add, in its place, the phrase "2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581".

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

127. The authority citation for part 174 continues to read as follows:

Authority: 46 U.S.C. 6101 and 12302; Department of Homeland Security Delegation No. 0170.1 (92).

■ 128. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears in the section, and add, in its place, the text indicated in the right column:

Section	Remove	Add
174.7	2100 Second Street SW., Washington, DC 20593–0001.	2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581.
174.121	2100 Second Street, SW., Washington, DC 20593–0001.	2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581.
174.125	2100 Second Street SW., Washington, DC 20593–0001.	2100 2nd St. SW., Stop 7581, Washington, DC 20593–7581.

PART 179—DEFECT NOTIFICATION

■ 129. The authority citation for part 179 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 4302, 4307, 4310, and 4311; Pub. L. 103–206, 107 Stat. 2439; 49 CFR 1.46.

§ 179.19 [Amended]

■ 130. In § 179.19, in paragraph (a), remove the phrase "Commandant Commandant (CG–54223), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001" and add, in its place, the phrase "Commandant (CG–54223), 2100 2nd St., SW., Stop 7581, Washington, DC 20593–7581"; and in paragraph (b), remove the phrase "(G–MSE–4), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593–0001" and add, in its place, the phrase "(CG–5214), 2100 2nd St., SW., Stop 7126, Washington, DC 20593–7126".

PART 181—MANUFACTURER REQUIREMENTS

■ 131. The authority citation for part 181 continues to read as follows:

Authority: 46 U.S.C. 4302.

■ 132. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears in the citation, and add, in its place, the text indicated in the right column:

Section	Remove	Add
181.4(a)	(G–MSE–4), 2100 Second Street, SW., Washington, DC 20593–0001.	(CG–5214), 2100 2nd St., SW., Stop 7126, Washington, DC 20593–7126.
181.31(a)&(b)	2100 Second Street, SW., Washington, DC 20593–0001.	2100 2nd St., SW., Stop 7581, Washington, DC 20593–7581.

Section	Remove	Add
181.33(b)	2100 Second Street, SW., Washington, DC 20593–0001.	2100 2nd St., SW., Stop 7581, Washington, DC 20593–7581.

PART 183—BOATS AND ASSOCIATED EQUIPMENT

■ 133. The authority citation for part 183 continues to read as follows:

Authority: 46 U.S.C. 4302; Pub. L 103–206, 107 Stat. 2439; 49 CFR 1.46.

§ 183.5 [Amended]

■ 134. In § 183.5(a), remove the phrase "Washington, DC 20593–0001" and add, in its place, the phrase "2100 2nd St., SW., Stop 7581, Washington, DC 20593–7581".

§ 183.607 [Amended]

■ 135. In § 183.607(a) introductory text, remove the phrase "2100 Second Street, SW., Washington, DC 20593–0001" and add, in its place, the phrase "2100 2nd St., SW., Stop 7000, Washington, DC 20593–7000".

Dated: June 9, 2010.

Steve Venckus,

Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. 2010–14620 Filed 6–24–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–1080]

RIN 1625–AA00, 1625–AA11

Amended Safety Zone and Regulated Navigation Area, Chicago Sanitary and Ship Canal, Romeoville, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments.

SUMMARY: The Coast Guard is revising its safety zone and Regulated Navigation Area (RNA) on the Chicago Sanitary and Ship Canal (CSSC) near Romeoville, IL. This revised temporary interim rule reduces the areas covered by the safety zone and RNA, and places additional restrictions on vessels that may transit the RNA.

DATES: *Effective Date:* Temporary section, § 165.T09–1080, is effective June 25, 2010 until 5 p.m. on December 1, 2010. This revision is enforceable with actual notice beginning upon date of signature.

Comment Period: Comments and related material must reach the Docket Management Facility on or before August 24, 2010.

ADDRESSES: You may submit comments identified by docket number USCG–2009–1080 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the "Public Participation and Request for Comments."

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Commander Tim Cummins, Deputy Prevention Division, Ninth Coast Guard District, telephone 216–902–6045. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–1080), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert "USCG–2009–1080" in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert USCG–2009–1080 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please

explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Regulatory Information

The Coast Guard is issuing this temporary interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." For the reasons discussed below, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule based upon data which indicates that Asian carp are much closer to the Great Lakes waterway system than originally thought. The possibility exists that vessels will transport Asian carp eggs, gametes, or juvenile fish safely through the electrical dispersal barrier in water attained south of the fish barrier that is then transported and discharged on the other side of the barrier. The Asian carp are the subject of an ongoing multi-agency study aimed at preventing their introduction into the Great Lakes. The proposed temporary safety zone and RNA will allow that multi-agency effort to progress towards its goal of protecting people, vessels, and the environment from the hazards associated with the possible introduction of invasive species such as Asian carp into the Great Lakes.

As such, the USCG must take immediate steps in order to prevent possible introduction of Asian carp before the ongoing effort can be completed. Therefore, it would be against the public interest to delay the issuing of this rule. Additionally, for the same reasons, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** under 5 U.S.C. 553(d)(3).

For additional discussion of the good cause surrounding the issuance of the safety zone and RNA being revised by this rule, refer to the issuance of the initial temporary final rule on January 6, 2010 (75 FR 754, 755).

Background and Purpose

The discussion that follows was published previously in the initial temporary final rule on January 6, 2010 (75 FR 754).

The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, as amended by the National Invasive Species Act of 1996, authorized the United States Army Corps of Engineers (USACE) to conduct a demonstration project to identify an environmentally sound method for preventing and reducing the dispersal of non-indigenous aquatic nuisance species through the Chicago Sanitary and Ship Canal (CSSC). The USACE selected an electric barrier because it is a non-lethal deterrent with a proven history, which does not overtly interfere with navigation in the canal.

A demonstration dispersal barrier (Barrier I) was constructed and has been in operation since April 2002. It is located approximately 30 miles from Lake Michigan and creates an electric field in the water by pulsing low voltage DC current through steel cables secured to the bottom of the canal. A second barrier, Barrier IIA, was constructed 800 to 1300 feet downstream of the Barrier I. The potential field strength for Barrier IIA is up to four times that of the Barrier I. Barrier IIA was successfully operated for the first time for approximately seven weeks in September and October 2009, while Barrier I was taken down for maintenance. Construction on a third barrier (Barrier IIB) is planned; Barrier IIB would augment the capabilities of Barriers I and IIA.

In the spring of 2004, a commercial towboat operator reported an electrical arc between a wire rope and timberhead while making up a tow in the vicinity of Barrier I. During subsequent USACE safety testing, sparking was observed at points where metal-to-metal contact occurred between two barges in the barrier field.

The electric current in the water also poses a safety risk to commercial and recreational boaters transiting the area. The Navy Experimental Diving Unit (NEDU) was tasked with researching how the electric current from the barriers would affect a human body if immersed in the water. The NEDU final report concluded that the possible effects to a human body if immersed in the water include paralysis of body muscles, inability to breathe, and ventricular fibrillation.

A Safety Work Group facilitated by the Coast Guard and in partnership with the USACE and industry initially met in February 2008 and focused on three goals: (1) Education and public outreach, (2) keeping people out of the water, and (3) egress/rescue efforts. The Safety Work Group has regularly been attended by eleven stakeholders, including industry representatives such as the American Waterways Operators and Illinois River Carriers Association, the Army Corps of Engineers Chicago District, Coast Guard Marine Safety Unit Chicago, Coast Guard Sector Lake Michigan/Captain of the Port Lake Michigan, and the Ninth Coast Guard District.

Based on the safety hazards associated with electric current flowing through navigable waterways and the uncertainty of the effects of higher voltage on people and vessels that pass over and adjacent to the barriers, the Coast Guard is implementing operational restrictions, via an RNA, on vessels until proper testing and analysis of such testing can be completed by the USACE. The Coast Guard appreciates the commercial significance of this waterway and will work closely with the USACE to reduce operational restrictions as soon as possible; however, it is imperative that the RNA be immediately enacted to avoid loss of life.

On December 2, 2009, rotenone, a fish toxicant, was applied to approximately six miles of the CSSC while barrier maintenance was conducted to ensure no fish were able to transit the barrier. One Silver Carp was found in the area immediately south of the barrier. Similarly e-dna was detected north of the barrier, in an area of the Cal Sag Channel immediately below the O'Brien Locks and at the confluence of the Cal Sag Channel and the CSSC. This e-dna indicates the potential presence of Carp, but in the subsequent fishing operations, we were not able to determine a number or mass of the fish present.

Affected parties are reminded that the USACE may again raise the operating parameters of the fish barrier in response to ongoing tests regarding the effectiveness of the barrier on the Asian carp. In addition, when USACE activates barrier IIB, additional testing will be necessary to ensure the safety of vessels. If this occurs, it is possible that fewer vessels will be given permission to enter the RNA and safety zone until further safety testing and analysis can be completed and current timelines for a final rule will be extended.

Discussion of Rule

This temporary interim rule amends 33 CFR 165.T09–1080, issued on January 6, 2010 (75 FR 759), which established a safety zone and RNA on the waters of the CSSC. The purpose of this rule is to change the area sizes of the safety zone and RNA, and to place additional restrictions on vessels that may transit the RNA. This rule amends

33 CFR 165.T09–1080(a)(1), which established the area of the safety zone, to read "450 feet south of the Romeo Road Bridge", instead of "958 feet south of the Romeo Road Bridge". This rule amends § 165.T09–1080 (b)(1), which established the size of the RNA, to reduce the size of the RNA from mile markers 295.0–297.5 to mile markers 295.5–297.2. This rule amends § 165.T09–1080 (b)(2)(ii), which listed restrictions on vessels that may transit the RNA, by adding two more restrictions on vessels that may transit the RNA. Vessels must be greater than 20 feet to transit the RNA. Additionally, personal watercraft, motorized and non-motorized, of any kind (*e.g.* jet skis, wave runners, kayaks etc.) will not be permitted to transit the RNA.

All other provisions of the safety zone and RNA remain unchanged.

Regulatory Analyses

We developed this temporary interim rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This temporary interim rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Because this regulated navigation area and safety zone must be implemented immediately without a full notice and comment period, the full economic impact of this rule is difficult to determine at this time, and that the revisions being made by this rule are minimal. What follows is the regulatory impact statement that published on January 6, 2010, when this temporary interim rule was first established:

This rule will affect commercial traffic transiting the electrical dispersal fish barrier system and surrounding waters. The USACE maintains data about the commercial vessels using the Lockport Lock and Dam, which provides access to the proposed RNA. According to USACE data, the commercial traffic through the Lockport Lock consisted of 147 towing vessels and 13,411 barges during 2007. Of those, 96 towing vessels and 2,246 barges were handling red flag cargo (*i.e.,* those carrying hazardous, flammable, or combustible material in bulk).

Recreational vessels will also be affected under this rule. According to USACE data, recreational vessels made up 66 percent of the usage of the Lockport Lock and Dam in 2007. Operation and maintenance of the USACE fish barrier will continue to affect recreational vessels as they have in the past. The majority of these vessels will still be able to transit the RNA under this rule.

The potential cost associated with this rule will include bow boat assistance for red flag vessels and the potential cost associated with possible delays or inability to transit the RNA for those vessels transporting non-potable water attained on one side of the barrier for discharge on the other.

Operators have been using bow boat assistance, under prior temporary rules, to mitigate the risk posed by the electrical dispersal fish barrier system operated by USACE. Based on information from the Ninth Coast Guard District, several tow boat operators are already refraining from permitting the discharge of non-potable water attained on one side of the barrier to the other.

We expect some provisions in this rule will not result in additional costs. These include loitering, mooring and PFD requirements. Similar to prior temporary rules, vessels are prohibited from mooring or loitering in the RNA and all personnel in the RNA on open decks are required to wear a Coast Guard approved Type I personal flotation device. Most commercial and recreational operators will have required flotation devices on board as a result of other requirements and common safe boating practices. Based on the past temporary rules, we observed no information and received no data to confirm there were additional costs as a result of these provisions.

In addition, the initial test results at the current operating parameters of two volts per inch indicate that the majority of commercial and recreational vessels that regularly transit the CSSC will be permitted to enter the regulated navigation area and safety zone under certain conditions. Those vessels that will not be permitted to pass through the barrier may be permitted, on a case by case basis, to pass via a dead ship tow by a commercial vessel that is able to transit.

We expect the benefits of this rule will mitigate marine safety risks as a result of the operation and maintenance of the fish barriers by the USACE. This rule will allow commerce to continue through the waters adjacent to and over these barriers. This rule will also mitigate the possibility of an Asian Carp introduction into Lake Michigan, and the Great Lakes system, as a result of commerce through the CSSC.

At this time, based on available information from past temporary rules, we anticipate that this rule will not be economically significant under Executive Order 12866 (*i.e.,* have an annual effect on the economy of $100 million or more). The Coast Guard urges interested parties to submit comments that specifically address the economic impacts of this temporary interim rule. Comments can be made online by following the procedures outlined above in the **ADDRESSES** section.

Small Entities

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires agencies to consider whether regulatory actions would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. An RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). The Coast Guard determined that this rule is exempt from notice and comment rulemaking pursuant to 5 U.S.C. 553(b)(B). Therefore, an RFA analysis is not required for this rule.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this temporary rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of the category of actions which do not individually or cumulatively have significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2 Figure 2–1, paragraph (34)(g), as well as paragraph (27) of the Instruction and neither an environmental assessment nor an environmental impact statement is required. This rule involves the establishing, disestablishing, or changing of regulated navigation areas and security or safety zones. This temporary rule will assist the aforementioned multi-agency effort to research and manage the possible impact of the Asian carp on the Great Lakes. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 165.T09–1080, revise paragraphs (a)(1) and (b)(1), and add paragraphs (b)(2)(ii)(J) and (b)(2)(ii)(K) to read as follows:

§ 165.T09–1080 Safety Zone and Regulated Navigation Area, Chicago Sanitary and Ship Canal, Romeoville, IL.

(a) * * *

(1) The following area is a temporary safety zone: All waters of the Chicago Sanitary and Ship Canal, Romeoville, IL located between mile marker 296.1 (approximately 450 feet south of the Romeo Road Bridge and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge).

* * * * *

(b) * * *

(1) The following is a regulated navigation area (RNA): All waters of the Chicago Sanitary and Ship Canal, Romeoville, IL located between mile marker 295.5 (approximately 3600 feet south of the Romeo Road Bridge) and mile marker 297.2 (approximately 0.5 miles north of the pipeline arch).

(2) * * *

(ii) * * *

(J) Vessels must be greater than twenty feet in length.

(K) Vessels must not be a personal watercraft of any kind (*e.g.* jet skis, wave runners, kayaks, etc.).

* * * * *

Dated: June 15, 2010.

M. N. Parks,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 2010–15398 Filed 6–24–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165
[Docket No. USCG–2010–0529]

RIN 1625–AA00

Safety Zone; Bay Swim III, Presque Isle Bay, Erie, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a swimming event in the Captain of the Port Buffalo zone. This rule is intended to restrict vessels from areas of water during events that pose a hazard to public safety. The safety zone established by this rule is necessary to protect participants and vessels from the hazards associated with a swimming event.

DATES: This rule is effective from 9 a.m. to 11 a.m. on June 26, 2010.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–0529 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0529 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0529 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0529 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Lieutenant Brian Sadler, Waterways Management Division Chief, U.S. Coast Guard Sector Buffalo, at Coast Guard; telephone 716–843–9573, e-mail *Brian.L.Sadler@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the publishing of an NPRM would be impracticable and contrary to public interest since immediate action is needed to ensure the public's safety during the swim race. The danger posed by the combination of participants swimming in the open water in Lake Erie along with motor vessels sharing the same area of water, presents a high risk of serious injuries or fatalities. Delaying the implementation of the safety zone would subject the public to the hazards associated with the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

Basis and Purpose

Temporary safety zones are necessary to ensure the safety of participants and vessels from the hazards associated with swimming event. The Captain of the Port Buffalo has determined that swimming events present a significant risk to public safety. The likely combination of participants swimming in the open water in Lake Erie along with motor vessels sharing the same area of water, presents a high risk of serious injuries or fatalities.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of participants, spectators and vessels in conjunction with the Bay Swim III swimming event. The safety zone will be effective from 9 a.m. to 11 a.m. on June 26, 2010. The safety zone will encompass specified waters of Presque Isle Bay, Lake Erie, near Erie, Pennsylvania starting at position 42°07′34″ N, 80°08′11″ W; then South East to 42°07′22″ N, 80°07′48″ W; then West to 42°07′24″ N, 80°08′48″ W; then North East returning to the point of origin to form a triangle (DATUM: NAD 83).

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Although this regulation will apply to the specified waters of the Lake Erie, the zone will not have a significant impact on small entities because the zone will only be in place for a limited duration of time and maritime advisories will be issued in advance to allow the public to adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This temporary final rule may affect the following entities, some of which might be small entities: The owners of operators of vessels intending to transit or anchor in a portion of Presque Isle Bay, Lake Erie, near Erie, Pennsylvania between 9 a.m. to 11 a.m. on June 26, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for two hours for one day and the safety zone will allow vessels to move freely around the safety zone on Presque Isle Bay.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves a temporary safety zone and as such is covered by this paragraph.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapters 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0529 to read as follows:

§ 165.T09–0529 Safety Zone; Bay Swim III, Presque Isle Bay, Erie, PA

(a) *Location.* The safety zone will encompass specified waters of Presque Isle Bay, Erie, Pennsylvania starting at position 42°07′34″ N, 80°08′11″ W; then South East to 42°07′22″ N, 80°07′48″ W; then West to 42°07′24″ N, 80°08′48″ W; then returning North East to the point of origin to form a triangle (DATUM: NAD 83).

(b) *Effective Period.* This regulation is effective from 9 a.m. to 11 a.m. on June 26, 2010.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within an enforced safety

zone established by this section is prohibited unless authorized by the Captain of the Port Buffalo or his on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his on-scene representative.

(3) The "on-scene representative" of the Captain of the Port Buffalo, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf. The on-scene representative of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf.

(4) Vessel operators desiring to enter or operate within an enforced safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 15, 2010.

R.S. Burchell,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2010–15394 Filed 6–24–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 1, 102 and 104

[Docket No. PTO–C–2006–0049]

RIN 0651–AC08

Correspondence With the United States Patent and Trademark Office

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (Office) is revising the rules of practice to update the service addresses for certain correspondence to the Office of the General Counsel (OGC) and a component of OGC, the Office of the Deputy General Counsel for Intellectual Property Law and Solicitor (Office of the Solicitor). The Office is also updating the physical location address for the Public Search Room.

DATES: *Effective Date:* The changes in this final rule are effective on June 25, 2010.

Compliance Date: The compliance date for correspondence to the Office of the General Counsel and the Office of the Solicitor is July 26, 2010.

FOR FURTHER INFORMATION CONTACT: Kyu S. Lee, Office of the General Counsel, Office of General Law, by telephone at 571–272–3000.

SUPPLEMENTARY INFORMATION: The United States Patent and Trademark Office (Office) is revising the rules of practice to update the service addresses for certain correspondence to the Office of the General Counsel (OGC) and a component of OGC, the Office of the Deputy General Counsel for Intellectual Property Law and Solicitor (Office of the Solicitor). The Office no longer has facilities in the Crystal City (Arlington, Virginia) location. Accordingly, revised service addresses for certain correspondence to the Office of the General Counsel and the Office of the Solicitor have been established at the Office's Alexandria, Virginia location. Although the effective date of the address change is June 25, 2010, both the Arlington, Virginia and Alexandria, Virginia addresses may be used until July 26, 2010. However, after July 26, 2010, only the revised address in Alexandria, Virginia may be used. Appropriate sections of the Office's Manual of Patent Examining Procedure (MPEP) will be revised to conform to the final rule.

The Office of the Deputy General Counsel for Intellectual Property Law and Solicitor: Specifically, the Office is changing the mailing address for correspondence to counsel for the Director of the Office of Enrollment and Discipline relating to disciplinary proceedings pending before a Hearing Officer or the Director from Arlington, Virginia to Alexandria, Virginia. The Office is also amending the mailing address for general correspondence to the Office of the Solicitor, by specifically adding the Office of the Solicitor as the addressee.

Public Search Room: The physical address for the Public Search Room is being updated to reflect that it is located at the Office's Alexandria, Virginia campus and is no longer in Arlington, Virginia.

The Office of the General Counsel: The Office is changing the Office of the General Counsel's mailing address for litigation and service from Arlington, Virginia to Alexandria, Virginia.

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, is amended as follows:

Part 1: Section 1.1 is amended to: (1) Change the Office of the Solicitor's address for correspondence to counsel for disciplinary proceedings to "Mail Stop 8, Office of the Solicitor, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450"; and (2) change the Office of the Solicitor's address for general correspondence to "Mail Stop 8, Office of the Solicitor, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450."

Part 102: Section 102.2 is amended to change the location address for the Public Search Room to "Public Search Room, Madison Building East, First Floor, 600 Dulany Street, Alexandria, Virginia."

Part 104: Section 104.2 is amended to: (1) Change the mailing address to "Office of the General Counsel, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450."

Rulemaking Considerations

Administrative Procedure Act: Since this final rule is directed to changing Office addresses, this final rule merely involves rules of agency organization, procedure, or practice within the meaning of 5 U.S.C. 553(b)(A). Accordingly, this final rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d).

Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required. *See* 5 U.S.C. 603.

Executive Order 13132: This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866: This rule making has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act: This rule making does not create any information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. However, this action is not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and record keeping requirements, Small businesses.

37 CFR Part 102

Administrative practice and procedure, Freedom of information, Privacy.

37 CFR Part 104

Administrative practice and procedure, Claims, Courts, Freedom of information, Inventions and patents, Trademarks.

■ For the reasons set forth in the preamble, 37 CFR Parts 1, 102 and 104 are amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

■ 2. Section 1.1 is amended by revising paragraphs (a)(3)(ii) and (a)(3)(iii) to read as follows:

§ 1.1 Addresses for non-trademark correspondence with the United States Patent and Trademark Office.

(a) * * *

(3) * * *

(ii) *Disciplinary proceedings.* Correspondence to counsel for the Director of the Office of Enrollment and Discipline relating to disciplinary proceedings pending before a Hearing Officer or the Director shall be mailed to: Mail Stop 8, Office of the Solicitor, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450.

(iii) *Solicitor, in general.* Correspondence to the Office of the Solicitor not otherwise provided for shall be addressed to: Mail Stop 8, Office of the Solicitor, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450.

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PART 102—DISCLOSURE OF GOVERNMENT INFORMATION

■ 3. The authority citation for 37 CFR part 102 continues to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C. 553; 31 U.S.C. 3717; 35 U.S.C. 2(b)(2), 21, 41, 42, 122; 44 U.S.C. 3101.

■ 4. Section 102.2 is amended by revising paragraph (a) to read as follows:

§ 102.2 Public reference facilities.

(a) USPTO maintains a public reference facility that contains the records FOIA requires to be made regularly available for public inspection and copying; furnishes information and otherwise assists the public concerning USPTO operations under FOIA; and receives and processes requests for records under FOIA. The FOIA Officer is responsible for determining which of USPTO's records are required to be made available for public inspection and copying, and for making those records available in USPTO's reference and records inspection facility. The FOIA Officer shall maintain and make available for public inspection and copying a current subject-matter index of USPTO's public inspection facility records. Each index shall be updated regularly, at least quarterly, with respect to newly included records. In accordance with 5 U.S.C. 552(a)(2), USPTO has determined that it is unnecessary and impracticable to publish quarterly, or more frequently, and distribute copies of the index and supplements thereto. The public reference facility is located in the Public Search Room, Madison Building East, First Floor, 600 Dulany Street, Alexandria, Virginia.

* * * * *

PART 104—LEGAL PROCESSES

■ 5. The authority citation for 37 CFR part 104 continues to read as follows: 35 U.S.C. 2(b)(2), 10, 23, 25; 44 U.S.C. 3101.

■ 6. Section 104.2 is amended by revising paragraph (a) to read as follows:

§ 104.2 Address for mail and service; telephone number.

(a) Mail under this part should be addressed to the Office of the General Counsel, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450.

* * * * *

Dated: June 18, 2010.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2010–15469 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–16–P

Proposed Rules

Federal Register
Vol. 75, No. 122
Friday, June 25, 2010

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0555; Directorate Identifier 2010–NM–053–AD]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace LP (Type Certificate Previously Held by Israel Aircraft Industries, Ltd.) Model Galaxy and Gulfstream 200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as: Extension of airbrakes above 360 KIAS [knots indicated air speed]/0.79 M_i [Mach indicated] results in aerodynamic driven vibration of the airbrake which, if not limited per Revision 14 to the AFM [airplane flight manual], can lead to high cycle fatigue failure of the airbrake in board hinge. The unsafe condition is high cycle fatigue of the airbrake in-board hinge, which can result in loss of the airbrake, which in turn can lead to reduced controllability of the airplane. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by August 9, 2010.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Gulfstream Aerospace Corporation, P.O. Box 2206, Mail Station D–25, Savannah, Georgia 31402–2206; telephone 800–810–4853; fax 912–965–3520; e-mail *pubs@gulfstream.com;* Internet *http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mike Borfitz, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2677; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0555; Directorate Identifier 2010–NM–053–AD, at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We have lengthened the 30-day comment period for proposed ADs that address MCAI originated by aviation authorities of other countries to provide adequate time for interested parties to submit comments. The comment period for these proposed ADs is now typically 45 days, which is consistent with the comment period for domestic transport ADs.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The Civil Aviation Authority of Israel (CAAI), which is the aviation authority for Israel, has issued Israeli Airworthiness Directive 01–10–01–07R1, dated January 20, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> Extension of airbrakes above 360 KIAS [knots indicated air speed]/0.79 M_i [Mach indicated] results in aerodynamic driven vibration of the airbrake which, if not limited per Revision 14 to the AFM [airplane flight manual], can lead to high cycle fatigue failure of the airbrake in board hinge.

The unsafe condition is high cycle fatigue of the airbrake in-board hinge, which can result in loss of the airbrake, which in turn can lead to reduced controllability of the airplane. The required action includes revising the Limitations section of the Gulfstream 200 Airplane Flight Manual to prohibit deploying the air brakes above the stated speed. You may obtain further information by examining the MCAI in the AD docket.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information

referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 90 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $7,650, or $85 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Gulfstream Aerospace LP (Type Certificate Previously Held by Israel Aircraft Industries, Ltd.): Docket No. FAA–2010–0555; Directorate Identifier 2010–NM–053–AD.

Comments Due Date

(a) We must receive comments by August 9, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Gulfstream Aerospace LP (Type Certificate previously held by Israel Aircraft Industries, Ltd.) Model Galaxy and Gulfstream 200 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight controls.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

Extension of airbrakes above 360 KIAS [knots indicated air speed]/0.79 M_i [Mach indicated] results in aerodynamic driven vibration of the airbrake which, if not limited per Revision 14 to the AFM [airplane flight manual], can lead to high cycle fatigue failure of the airbrake in board hinge.

The unsafe condition is high cycle fatigue of the airbrake in-board hinge, which can result in loss of the airbrake, which in turn can lead to reduced controllability of the airplane.

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Actions

(g) Within 60 days after the effective date of this AD: Revise the Limitations section of the Gulfstream 200 Airplane Flight Manual (AFM) to include the following statement. This may be done by inserting a copy of this AD into the AFM.

"MAXIMUM AIR BRAKES OPERATION/ EXTENDED SPEED

360 KIAS/0.79 M_i

NOTE

During emergency, air brakes may be used at speeds above 0.79 M_i."

Note 1: When a statement identical to that in paragraph (g) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

Note 2: The Gulfstream 200 AFM applies to both the Model Galaxy and Gulfstream 200 airplanes.

FAA AD Differences

Note 3: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(h) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Borfitz, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2677; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority

(or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(i) Refer to MCAI Israeli Airworthiness Directive 01–10–01–07R1, dated January 20, 2010, for related information.

Issued in Renton, Washington, on June 21, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–15402 Filed 6–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0639; Directorate Identifier 2009–NM–232–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Corporation Model DC–8–31, DC–8–32, DC–8–33, DC–8–41, DC–8–42, and DC–8–43 Airplanes; Model DC–8–50 Series Airplanes; Model DC–8F–54 and DC–8F–55 Airplanes; Model DC–8–60 Series Airplanes; Model DC–8–61 Series Airplanes; Model DC–8–70 Series Airplanes; and Model DC–8–70F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) that applies to all of the McDonnell Douglas Corporation airplanes identified above. The existing AD currently requires revising the maintenance program to incorporate new airworthiness limitations for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements. This proposed AD would add requirements to revise the maintenance program to incorporate specific Critical Design Configuration Control Limitations (CDCCL) information and install fuel tank float switch in-line fuses. This proposed AD would also add two Airworthiness Limitations inspections (ALIs). This proposed AD results from a design review of the fuel tank systems. We are proposing this AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by August 9, 2010.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com;* Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0639; Directorate Identifier 2009–NM–232–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On April 4, 2008, we issued AD 2008–09–04, Amendment 39–15484 (73 FR 21523, April 22, 2008), for all Model DC–8–31, DC–8–32, DC–8–33, DC–8–41, DC–8–42, and DC–8–43 airplanes; Model DC–8–50 series airplanes; Model DC–8F–54 and DC–8F–55 airplanes; Model DC–8–60 series airplanes; Model DC–8–60F series airplanes; Model DC–8–70 series airplanes; and Model DC–8–70F series airplanes. That AD requires revising the maintenance program to incorporate new airworthiness limitations for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements. That AD resulted from a design review of the fuel tank systems. We issued that AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Actions Since Existing AD Was Issued

Since we issued AD 2008–09–04, we have been notified that the float switch wires located on the leading edges of the left and right wings at the front spar are routed in the same bundles as power wires. If a short circuit between a float switch wire and a power wire occurs, an over-current can cause excessive temperatures in the float switch wires, resulting in damage. Adding an in-line fuse as a self-contained component in

each float switch circuit will minimize the possibility of excessive temperatures in the float switch wires. If not corrected, and if there is a short circuit of the float switch wire to a power wire, possible damage to the float switch wire could occur, and it could become a potential ignition source into the fuel tank and consequently cause fire or an explosion.

Relevant Service Information

We have reviewed Boeing Service Bulletin DC8–28–090, dated October 9, 2009. This service bulletin describes procedures for installing fuel tank float switch in-line fuses in the front spar of the leading edges of the left and right wings. This service bulletin references CDCCL 20–10 from Boeing Special Compliance Item Report, MDC–02K9030, Revision B, dated July 23, 2009. Boeing DC–8 Special Compliance Item Report, MDC–02K9030, Revision B, dated July 23, 2009, adds CDCCL 20–10 "DC–8 Float Switch Circuit," and also adds ALI 30–1 for a pneumatic system decay check to minimize the risk of hot air impingement on the fuel tank. Boeing DC–8 Special Compliance Item Report, MDC–02K9030, Revision C, dated January 5, 2010, adds ALI 28–1, "DC–8 Alternate and Center Auxiliary Tank Fuel Pump Control Systems Check."

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to develop on other airplanes of the same type design. For this reason, we are proposing this AD, which would supersede AD 2008–09–04 and would retain the requirements of the existing AD. This proposed AD would also require accomplishing the actions specified in the service information described previously.

Changes to Existing AD

This proposed AD would retain all requirements of AD 2008–09–04. Since AD 2008–09–04 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2008–09–04	Corresponding requirement in this proposed AD
paragraph (f)	paragraph (g)
paragraph (g)	paragraph (h)
paragraph (h)	paragraph (i)

AD 2008–09–04 allowed the use of later revisions of the airworthiness limitations. That provision has been removed from this AD. Allowing the use of "a later revision" of specific service documents violates Office of the Federal Register regulations for approving materials that are incorporated by reference. We have added paragraph (m) to this AD to allow incorporation of Boeing DC–8 Special Compliance Item Report, MDC–02K9030, Revision B, dated July 23, 2009; and Revision C, dated January 5, 2010; as a method of compliance with the requirements of paragraph (g) of this AD. Affected operators, however, may request approval to use a later revision of the referenced service documents as an alternative method of compliance, under the provisions of paragraph (o) of this AD.

Costs of Compliance

There are about 125 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Revising the Maintenance Program (required by AD 2008–09–04).	1	$85	$0	$85	125	$10,625.
Revising the Airworthiness Limitation Section (new proposed action).	1	85	0	$85	125	$10,625.
Installing fuses (new proposed action)	Up to 35	85	0	Up to $2,975	125	Up to $371,875.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–15484 (73 FR 21523, April 22, 2008) and adding the following new AD:

McDonnell Douglas Corporation: Docket No. FAA–2010–0639; Directorate Identifier 2009–NM–232–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by August 9, 2010.

Affected ADs

(b) This AD supersedes AD 2008–09–04, Amendment 39–15484.

Applicability

(c) This AD applies to all McDonnell Douglas Model DC–8–31, DC–8–32, DC–8–33, DC–8–41, DC–8–42, and DC–8–43 airplanes; Model DC–8–51, DC–8–52, DC–8–53, and DC–8–55 airplanes; Model DC–8F–54 and DC–8F–55 airplanes; Model DC–8–61, DC–8–62, and DC–8–63 airplanes; Model DC–8–61F, DC–8–62F, and DC–8–63F airplanes; Model DC–8–71, DC–8–72, and DC–8–73 airplanes; and Model DC–8–71F, DC–8–72F, and DC–8–73F airplanes; certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) in accordance with paragraph (o) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Unsafe Condition

(e) This AD results from a design review of the fuel tank systems. The Federal Aviation Administration is issuing this AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

(f) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Restatement of Requirements of AD 2008–09–04, With Revised Compliance Method

Revise the Maintenance Program

(g) Before December 16, 2008, revise the maintenance program to incorporate the information specified in Appendixes B, C, and D of the Boeing DC–8 Special Compliance Item Report, MDC–02K9030, Revision A, dated August 8, 2006.

No Reporting Requirement

(h) Although the Boeing DC–8 Special Compliance Item Report, MDC–02K9030, Revision A, dated August 8, 2006, specifies to submit certain information to the manufacturer, this AD does not require that action.

No Alternative Inspections, Inspection Intervals, or Critical Design Configuration Control Limitations (CDCCLs)

(i) Except as provided by paragraph (m) of this AD, after accomplishing the applicable actions specified in paragraph (g) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used unless the inspections, intervals, or CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (o) of this AD.

New Requirements of This AD

Revise the Maintenance Program

(j) Within 30 days after the effective date of this AD, revise the maintenance program to incorporate the information required by paragraphs (j)(1), (j)(2), and (j)(3) of this AD.

(1) CDCCL 20–10, "DC–8 Float Switch Circuit" in Appendix B of Boeing DC–8 Special Compliance Item Report, MDC–02K9030, Revision C, dated January 5, 2010.

(2) ALI 30–1 "DC–8 Pneumatic System Decay Check" in Appendix C of Boeing DC–8 Special Compliance Item Report, MDC–02K9030, Revision C, dated January 5, 2010.

(3) ALI 28–1, "DC–8 Alternate and Center Auxiliary Tank Fuel Pump Control Systems Check," in Appendix C of Boeing DC–8 Special Compliance Item Report, MDC–02K9030, Revision C, dated January 5, 2010.

Install the In-Line Fuses

(k) Within 60 months after the effective date of this AD, install the fuel tank float switch in-line fuses in the leading edges of the front spars of the left and right wings, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC8–28–090, dated October 9, 2009.

No Alternative Inspections, Inspection Intervals, or Critical Design Configuration Control Limitations (CDCCLs)

(l) After accomplishing the actions specified in paragraph (k) of this AD, no alternative inspections, inspection intervals, or CDCCLs may be used unless the inspections, intervals, or CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (o) of this AD.

(m) Revising the maintenance program to incorporate the information specified in Appendixes B, C, and D of the Boeing DC–8 Special Compliance Item Report, MDC–02K9030, Revision B, dated July 23, 2009; or Revision C, dated January 5, 2010; is an acceptable method of compliance with the actions specified in paragraph (g) of this AD.

No Reporting Requirement

(n) Although the Boeing DC–8 Special Compliance Item Report, MDC–02K9030, Revision B, dated July 23, 2009; and Revision C, dated January 5, 2010; specify to submit certain information to the manufacturer, this AD does not require that action.

Alternative Methods of Compliance (AMOCs)

(o)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Issued in Renton, Washington, on June 21, 2010.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–15400 Filed 6–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 234, 244, 250,253, 259, and 399

[Docket No. DOT–OST–2010–0140]

RIN 2105–AD92

Enhancing Airline Passenger Protections

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Clarification to Notice of Proposed Rulemaking.

SUMMARY: The Department of Transportation is clarifying its notice of

proposed rulemaking (NPRM) published in the **Federal Register** on June 8, 2010, which, among other issues, solicits comments on options to provide greater access to air travel for persons with peanut allergies. The June 8 document also proposes action to strengthen the rights of air travelers in the event of oversales, flight cancellations and long delays, and to ensure that passengers have accurate and adequate information to make informed decisions when selecting flights.

DATES: Comments should be filed by August 9, 2010. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT–OST–2010–0140 by any of the following methods:

- *Federal Rulemaking Portal:* go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave., SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.
- *Fax:* (202) 493–2251.

Instructions: You must include the agency name and docket number DOT–OST–2010–0140 or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comment. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.) You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://DocketsInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Daeleen Chesley, Senior Trial Attorney, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366–6792, *daeleen.chesley@dot.gov.*

You may also contact Blane Workie, Deputy Assistant General Counsel at the same address, (202) 366–9342, *blane.workie@dot.gov.* Arrangements to receive this notice in an alternative format may be made by contacting the above named individuals.

SUPPLEMENTARY INFORMATION: *Pilot Project on Open Government and the Rulemaking Process:* Pursuant to the notice of proposed rulemaking (NPRM) published June 8, 2010, persons who desire may provide input on this rulemaking using the social networking pilot project, Regulation Room, established by DOT in partnership with the Cornell eRulemaking Initiative (CeRI). You may visit the Regulation Room Web site, *http://www.regulationroom.org,* to learn about the NPRM and that process. For questions about this project, please contact Brett Jortland in the DOT Office of General Counsel at 202.421.9216 or *brett.jortland@dot.gov.*

Clarification of Notice of Proposed Rulemaking

On June 8, 2010, the Department published an NPRM on Enhancing Airline Passenger Protections (75 FR 32318), which, among other things, solicits comment, without proposing any specific rule text, on three options that would provide greater access to air travel for persons with peanut allergies. The NPRM also sought comment on whether it would be preferable to maintain the current practice of not prescribing carrier practices concerning the serving of peanuts. (75 FR 32318, 32332)

We wish to clarify that, as alluded to in the NPRM, we recognize that Section 346 of the Department of Transportation and Related Agencies Appropriations Act of 2000, Public Law 106–69—Oct. 9, 1999 states:

> Hereafter, none of the funds made available under this Act or any other Act, may be used to implement, carry out, or enforce any regulation issued under section 41705 of title 49, United States Code, including any regulation contained in part382 of title 14, Code of Federal Regulations, or any other provision of law (including any Act of Congress, regulation, or Executive order or any official guidance or correspondence thereto), that requires or encourages an air carrier (as that term is defined in section 40102 of title 49, United States Code) to, on intrastate or interstate air transportation (as those terms are defined in section 40102 of title 49, United States Code)—(1) provide a peanut-free buffer zone or any other related peanut-restricted area; or (2) restrict the distribution of peanuts, until 90 days after submission to the Congress and the Secretary of a peer-reviewed scientific study that determines that there are severe reactions by passengers to peanuts as a result of contact with very small airborne peanut particles of the kind that passengers might encounter in an aircraft.

We will comply with this requirement.

List of Subjects

14 CFR Parts 234, 250, and 259

Air carriers, Consumer protection, Reporting and recordkeeping requirements.

14 CFR Part 244

Air carriers, Consumer protection, Tarmac delay data.

14 CFR Part 253

Air carriers, Consumer protection, Contract of carriage.

14 CFR Part 399

Administrative practice and procedure, Air carriers, Air rates and fares, Air taxis, Consumer protection, Small businesses.

Issued June 22, 2010, at Washington DC.

Ray LaHood,

Secretary of Transportation.

[FR Doc. 2010–15536 Filed 6–23–10; 11:15 am]

BILLING CODE 4910–9X–P

SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Parts 806 and 808

Review and Approval of Projects

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: This document contains proposed rules that would amend the project review regulations of the Susquehanna River Basin Commission (Commission) to: Include subsidiary allocations for public water supply systems under the scope of withdrawals requiring review and approval; improve notice procedures for all project applications; clarify requirements for grandfathered projects increasing their withdrawals from an existing source or initiating a new withdrawal; refine the provisions governing transfer and re-issuance of approvals; clarify the Executive Director's authority to grant, deny, suspend, rescind, modify or condition an Approval by Rule; include decisional criteria for diversions into the basin; amend administrative appeal procedures to broaden available

remedies and streamline the appeal process; and make other minor regulatory clarifications to the text of the regulations.

DATES: Comments on these proposed rules may be submitted to the Commission on or before August 10, 2010. The Commission has scheduled two public hearings on the proposed rules, to be held July 27, 2010, in Binghamton, New York, and July 29, 2010, in Harrisburg, Pennsylvania. The locations of the public hearings are listed in the addresses section of this notice.

ADDRESSES: Comments may be mailed to: Mr. Richard A. Cairo, Susquehanna River Basin Commission, 1721 N. Front Street, Harrisburg, PA 17102–2391, or by e-mail to *rcairo@srbc.net.*

The public hearings will be held on Tuesday, July 27, 2010, at 7 p.m., at the Holiday Inn Arena, 2–8 Hawley Street, Binghamton, New York 13901, and Thursday, July 29, 2010, at 10 a.m., at the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101. Those wishing to testify are asked to notify the Commission in advance, if possible, at the regular or electronic addresses given below.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: 717–238–0423, ext. 306; fax: 717–238–2436; e-mail: *rcairo@srbc.net.* Also, for further information on the proposed rulemaking, visit the Commission's Web site at *http://www.srbc.net.*

SUPPLEMENTARY INFORMATION:

Background and Purpose of Amendments

When 18 CFR 806.4 was originally published as final at 71 FR 78570, December 29, 2006, updating and expanding the range of projects subject to Commission review and approval, a pre-existing regulatory provision was omitted inadvertently and this proposed rulemaking attempts to correct that omission. Specifically, 18 CFR § 806.4(a)(2) would be modified to indicate that the taking or removal of water by a public water supplier indirectly through another public water supply system or another water facility (aka, a subsidiary allocation) constitutes a withdrawal that is subject to review and approval.

An amendment to 18 CFR 806.4(a)(2)(iv) will clarify that sponsors of grandfathered surface or groundwater withdrawal projects are required to submit applications for review and approval whenever the project will increase its withdrawal from an existing source, or initiate a withdrawal from a new source, or combination of sources. This clarification memorialized existing Commission policy under the current rule.

An amendment to 18 CFR 806.4(c) will provide that sponsors of certain classes of projects undergoing a change of ownership, and thus triggering review and approval, would have 90 days from the date of ownership transfer to submit applications under the rule. The current rule requires submission of the application on or before the date of ownership change. This amendment is consistent with those recommended for transfers of approval under 18 CFR 806.6, as discussed below.

The proposed amendments to 18 CFR 806.6 are intended to clarify that certain approvals may be transferred or conditionally transferred administratively, rather than requiring full Commission action on such transfer requests. The existing phraseology authorizing transfers or conditional transfers of approval "without prior Commission review and approval" was misleading in that respect and is proposed to be deleted, along with other editorial changes intended to add more clarification to this section.

The existing rule also requires certain categories of approvals to initiate the transfer of approval process with the Commission on or before the date of ownership transfer, and yet other categories of approvals are allowed to initiate transfer applications within 90 days of the date of ownership transfer. The proposed language would uniformly require all applications to be submitted within 90 days of the date of ownership transfer.

Another substantive change would break out situations where project sponsors with existing approvals undergo a name change and seek to have the approval changed to reflect the new name. Rather than being categorized as a transfer of approval, which is triggered by a change in ownership, a new subsection is added to more appropriately provide for "re-issuance" of such approvals to reflect the name change of the existing project sponsor.

An amendment is proposed to 18 CFR 806.7 to clarify that existing language recognizing that agencies of the member jurisdictions exercise "review authority" over projects also regulated by the Commission is intended to mean and should be stated as "review and approval authority."

18 CFR 806.15 currently sets notification requirements for project sponsors applying for approvals issued by the Commission under its standard docketing procedures, and for Approval by Rule (ABR) natural gas pad site approvals issued under 18 CFR 806.22(f). However, ABRs issued under 18 CFR 806.22(e) are subject to certain notification standards in that section which are inconsistent with the general notification requirements contained in 18 CFR 806.15. Furthermore, there are also requirements contained in 18 CFR 806.22(f) that are redundant with those contained in 18 CFR 806.15 and are therefore unnecessary.

The proposed amendments to this section (and complementary ones proposed for 18 CFR 806.22(e) and (f)) are intended to result in all notification requirements for all project approvals being consolidated into this section, including all those having general applicability and those that might be specific to certain classes of project applications. With regard to specific requirements for certain classes, the proposed rulemaking would establish the following revised notification standards:

■ For groundwater withdrawal applications, rather than just notifying landowners that are contiguous to the project site, notice would have to be given to all owners currently listed on the tax assessment rolls that are within one-half mile of the proposed withdrawal location.

■ For surface water withdrawal applications, rather than just notifying landowners that are contiguous to the project site, notice would have to be given to all owners currently listed on the tax assessment rolls that are within one-half mile of the proposed withdrawal location and whose property borders the stream, river, lake or water body from which the withdrawal is proposed to be taken.

■ For consumptive use applications involving a withdrawal, the applicable groundwater or surface water withdrawal requirements noted above would apply. For consumptive use applications that do not involve a withdrawal (such as those supplied by a public water supplier), newspaper notice in the area of the project would be required.

■ For out-of-basin diversion applications, there would be additional newspaper notice required in the area outside the basin where the proposed use of the diverted water would occur.

• For into-basin diversion applications, there would be additional newspaper notice required in the area outside the basin where the withdrawal of water proposed for diversion is located.

• For applications to use public water supply a source for water in natural gas development operations, newspaper

notice in the area served by the public water supply system would be required.

• For applications to use wastewater discharge as a source for water in natural gas development operations, newspaper notice would be required in all areas where such discharge water would be used for such development purposes.

In addition to the foregoing, the proposed amendments establish uniform proof of notification standards and would require project sponsors to maintain all proofs of notice for the duration of the approvals related to such notices.

The Approval by Rule (ABR) provisions contained in 18 CFR 806.22 would be modified to clarify that the Executive Director has the authority not only to grant or deny such ABRs, but to "suspend, rescind, modify or condition" such approvals as well. Such authority was implied in the existing language and the existing policy of the Commission supports that interpretation. The proposed amendment is intended to provide that clarification. A second amendment would require all project sponsors seeking an ABR to satisfy the applicable notice requirements proposed for 18 CFR 806.15, and noted above.

With regard to ABRs issued under 18 CFR 806.22(f) for natural gas development projects, language is proposed for subsection (f)(12)(i) to clarify that project sponsors registering approved water withdrawals must record daily and report quarterly the quantity of water obtained from all registered sources. Additionally, subsection (f)(12)(ii) would be modified to delete "other reclaimed waters" as potential sources, thus limiting the class of approvable sources under this provision to public water supply systems and wastewater discharges.

The proposed amendments to 18 CFR 806.24 would add certain decisional criteria for consideration by the Commission while acting on applications for into-basin diversions, similar to what now is provided for consideration in acting on out-of-basin diversion applications. Specifically, the proffered language would add criteria related to the potential introduction of invasive or exotic species that may be injurious to the water resources of the basin, and the extent to which the proposed diversion would satisfy all other applicable standards contained in subpart C of Part 806.

18 CFR 806.35 currently indicates that project sponsors have an affirmative duty to pay fees established by the Commission. The proposed amendatory language would expand this to indicate that the purpose of such fees is to cover the Commission's costs of administering its regulatory program and any extraordinary costs associated with specific projects.

18 CFR 808.2 currently establishes a procedure for the filing of administrative appeals to actions or decisions rendered by the Commission or the Executive Director. The broad terms of the current regulation have resulted in some abuse of the appeal process, including attempts to file appeals of determinations on requests for administrative appeals, appeals of stay request determinations and other extraneous or repetitive pleadings that frustrate the original purpose of providing the appropriate administrative review envisioned when this rule became effective in 2007. In short, this abuse has been enabled by the fact that there is no limitation on the type of Commission actions that are eligible for appeal under this section, leaving any action of the Commission subject to this process.

Additionally, the current regulation does not contain provisions for handling appeals from administrative level "Access to Records" determinations. The new Access to Records Policy adopted by the Commission in 2009 (Policy No. 2009–02) provides for appeal of such decisions to the Commission. Finally, the current regulation does not specify the authority of an appointed hearing officer to admit or bar intervener parties based on the principle of standing.

The proposed revisions to 18 CFR 808.2 generally limit appeals to a single filing, and only to project determinations or records determinations. Executive Director determinations on requests for stay would not be appealable to the Commission and would stand until the time of the Commission proceeding on the appeal (unless overturned by a court of competent jurisdiction). Lastly, the appointed hearing officer is given authority to admit or bar intervener parties based on the legal principle of standing.

List of Subjects in 18 CFR Parts 806 and 808

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission proposes to amend 18 CFR Parts 806 and 808 as follows:

PART 806—REVIEW AND APPROVAL OF PROJECTS

Subpart C—Standards for Review and Approval

1. The authority citation for Part 806 continues to read as follows:

Authority: Secs. 3.4, 3.5(5), 3.8, 3.10 and 15.2, Pub. L. 91–575, 84 Stat. 1509 *et seq.*

2. In § 806.4, revise paragraphs (a)(2) introductory text, (a)(2)(iv), and (c) to read as follows:

§ 806.4 Projects requiring review and approval.

(a) * * *

(2) *Withdrawals.* Any project described below shall require an application to be submitted in accordance with § 806.13, and shall be subject to the standards set forth in § 806.23. Hydroelectric projects, except to the extent that such projects involve a withdrawal, shall be exempt from the requirements of this section regarding withdrawals; provided, however, that nothing in this paragraph shall be construed as exempting hydroelectric projects from review and approval under any other category of project requiring review and approval as set forth in this section, § 806.5, or 18 CFR part 801. The taking or removal of water by a public water supplier indirectly through another public water supply system or another water user's facilities shall constitute a withdrawal hereunder.

* * * * *

(iv) With respect to groundwater projects in existence prior to July 13, 1978, and surface water projects in existence prior to November 11, 1995, any project that will increase its withdrawal from any source, or initiate a withdrawal from a new source, or combination of sources, by a consecutive 30-day average of 100,000 gpd or more, above that maximum consecutive 30-day amount which the project was withdrawing prior to the said applicable date.

* * * * *

(c) Any project that did not require Commission approval prior to January 1, 2007, and not otherwise exempt from the requirements of paragraph (a)(1)(iv), (a)(2)(v) or (a)(3)(iv) pursuant to paragraph (b) of this section, may be undertaken by a new project sponsor upon a change of ownership pending action by the Commission on an application submitted by such project sponsor requesting review and approval of the project, provided such application is submitted to the Commission in accordance with this part within 90 days of the date change

of ownership occurs and the project features related to the source, withdrawal, diversion or consumptive use of water, or the nature or quantity of water withdrawal, diversion or consumptive use associated with the project do not change pending review of the application. For purposes of this paragraph, changes in the quantity of water withdrawal, diversion or consumptive use shall only relate to increases in quantity in excess of the quantity withdrawn, diverted or consumptively used prior to the change of ownership.

3. In § 806.6, revise the section heading, paragraphs (a), (b) introductory text, (b)(1), (c) introductory text and (d) introductory text, and add paragraph (e) to read as follows:

§ 806.6 Transfer and re-issuance of approvals.

(a) An existing Commission project approval may be transferred or conditionally transferred to a new project sponsor upon a change of ownership of the project, subject to the provisions of paragraphs (b), (c) and (d) of this section, and the new project sponsor may only operate the project in accordance with and subject to the terms and conditions of the existing approval pending approval of the transfer, provided the new project sponsor notifies the Commission within 90 days from the date of the change of ownership, which notice shall be on a form and in a manner prescribed by the Commission and under which the new project sponsor certifies its intention to comply with all terms and conditions of the transferred approval and assume all other associated obligations.

(b) An existing Commission project approval for any of the following categories of projects may be conditionally transferred, subject to administrative approval by the Executive Director, upon a change of ownership and the new project sponsor may only operate such project in accordance with and subject to the terms and conditions of the transferred approval:

(1) A project undergoing a change of ownership as a result of a corporate reorganization where the project property is transferred to a corporation by one or more corporations solely in exchange for stock or securities of the transferee corporation, provided that immediately after the exchange the transferor corporation(s) own 80 percent of the voting stock and 80 percent of all other stock of the transferee corporation.

* * * * *

(c) An existing Commission approval of a project that satisfies the following conditions may be conditionally transferred and the project sponsor may only operate such project in accordance with and subject to the terms and conditions of the conditionally transferred approval, pending action by the Commission on the application submitted in accordance with paragraph (c)(3) of this section:

* * * * *

(d) An existing Commission project approval for any project not satisfying the requirements of paragraphs (b) or (c) of this section may be conditionally transferred and the project sponsor may only operate such project in accordance with and subject to the terms and conditions of the conditionally transferred approval, pending action by the Commission on an application the project sponsor shall submit to the Commission, provided that:

* * * * *

(e) An existing Commission project approval may be re-issued by the Executive Director at the request of a project sponsor undergoing a change of name, provided such change does not affect ownership or control of the project or project sponsor. The project sponsor may only continue to operate the project under the terms and conditions of the existing approval pending approval of its request for re-issuance, provided it submits its request to the Commission within 90 days from the date of the change, which notice shall be on a form and in a manner prescribed by the Commission, accompanied by the appropriate fee established therefore by the Commission.

4. In § 806.7, revise paragraph (a) to read as follows:

§ 806.7 Concurrent project review by member jurisdictions.

(a) The Commission recognizes that agencies of the member jurisdictions will exercise their review and approval authority and evaluate many proposed projects in the basin. The Commission will adopt procedures to assure compatibility between jurisdictional review and Commission review.

* * * * *

5. Revise § 806.15 to read as follows:

§ 806.15 Notice of application.

(a) The project sponsor shall, no later than 10 days after submission of an application to the Commission, notify the appropriate agency of the member State, each municipality in which the project is located, and the county planning agency of each county in which the project is located, that an application has been submitted to the Commission. The project sponsor shall also publish at least once in a newspaper of general circulation serving the area in which the project is located, a notice of the submission of the application no later than 10 days after the date of submission. The project sponsor shall also meet any of the notice requirements set forth in paragraphs (b) through (e) of this section, if applicable. All notices required under this section shall contain a description of the project, its purpose, the requested quantity of water to be withdrawn obtained from for sources other than withdrawals or consumptively used, and the address, electronic mail address, and phone number of the project sponsor and the Commission.

(b) For withdrawal applications submitted pursuant to § 806.4(a)(2), the project sponsor shall also provide the notice required under paragraph (a) of this section no later than 10 days after the date of its submission to each property owner listed on the tax assessment rolls of the county in which such property is located and indentified as follows:

(1) For groundwater withdrawal applications, the owner of any property that is located within one-half mile of the proposed withdrawal location.

(2) For surface water withdrawal applications, the owner of any property that is riparian or littoral to the body of water from which the proposed withdrawal will be taken and is within one-half mile of the proposed withdrawal location.

(c) For projects involving a diversion of water out of the basin, the project sponsor shall also publish a notice of the submission of its application, within 10 days thereof, at least once in a newspaper of general circulation serving the area outside the basin where the project proposing to use the diverted water is located. For projects involving a diversion of water into the basin, the project sponsor shall also publish a notice of the submission of its application, within 10 days thereof, at least once in a newspaper of general circulation serving the area outside the basin where the withdrawal of water proposed for diversion is located.

(d) For applications submitted under § 806.22(f)(12)(ii) to use a public water supply source, the newspaper notice requirement contained in paragraph (a) of this section shall be satisfied by publication in a newspaper of general circulation in the area served by the public water supply.

(e) For applications submitted under § 806.22(f)(12)(ii) to use a wastewater discharge source, the newspaper notice requirement contained in paragraph (a) of this section shall be satisfied by

publication in a newspaper of general circulation in each area within which the water obtained from such source will be used for natural gas development.

(f) The project sponsor shall provide the Commission with a copy of the United States Postal Service return receipt for the notifications to agencies of member States, municipalities and county planning agencies required under paragraph (a) of this section. The project sponsor shall also provide certification on a form provided by the Commission that it has published the newspaper notice(s) required by this section and made the landowner notifications as required under paragraph (b) of this section, if applicable. Until these items are provided to the Commission, processing of the application will not proceed. The project sponsor shall maintain all proofs of notice required hereunder for the duration of the approval related to such notices.

6. In § 806.22, revise paragraphs (e)(1)(i) introductory text, (e)(1)(i) (e)(1)(ii), (e)(6), (f)(3), (f)(9), and (f)(12)(i) and (f)(12)(ii) to read as follows:

§ 806.22 Standards for consumptive uses of water.

* * * * *

(e) * * *

(1) Except with respect to projects involving natural gas well development subject to the provisions of paragraph (f) of this section, any project whose sole source of water for consumptive use is a public water supply system, may be approved by the Executive Director under this paragraph (e) in accordance with the following, unless the Executive Director determines that the project cannot be adequately regulated under this approval by rule:

(i) *Notification of Intent:* No fewer than 90 days prior to the construction or implementation of a project or increase above a previously approved quantity of consumptive use, the project sponsor shall submit a Notice of Intent (NOI) on forms prescribed by the Commission, and the applicable application fee, along with any required attachments.

(ii) Within 10 days after submittal of an NOI under paragraph (e)(1)(i) of this section, the project sponsor shall satisfy the notice requirements set forth in § 806.15.

* * * * *

(6) The Executive Director may grant, deny, suspend, rescind, modify or condition an approval to operate under this approval by rule and will notify the project sponsor of such determination, including the quantity of consumptive use approved.

* * * * *

(f) * * *

(3) Within 10 days after submittal of an NOI under paragraph (f)(2) of this section, the project sponsor shall satisfy the notice requirements set forth in § 806.15.

* * * * *

(9) The Executive Director may grant, deny, suspend, rescind, modify or condition an approval to operate under this approval by rule and will notify the project sponsor of such determination, including the sources and quantity of consumptive use approved. The issuance of any approval hereunder shall not be construed to waive or exempt the project sponsor from obtaining Commission approval for any water withdrawals or diversions subject to review pursuant to § 806.4 (a).

* * * * *

(12) The following additional sources of water may be utilized by a project sponsor in conjunction with an approval by rule issued pursuant to paragraph (f)(9) of this section:

(i) Water withdrawals or diversions approved by the Commission pursuant to § 806.4 (a) and issued to persons other than the project sponsor, provided any such source is approved for use in natural gas well development, the project sponsor has an agreement for its use, and at least 10 days prior to use, the project sponsor registers such source with the Commission on a form and in a manner as prescribed by the Commission, and provides a copy of same to the appropriate agency of the member State. Any approval issued hereunder shall be further subject to any approval or authorization required by the member State to utilize such source(s). The project sponsor shall record on a daily basis, and report quarterly on a form and in a manner prescribed by the Commission, the quantity of water obtained from any source registered hereunder.

(ii) Sources of water other than those subject to paragraph (f)(12)(i) of this section, including public water supply or wastewater discharge, provided such sources are first approved by the Executive Director pursuant to this section. Any request to utilize such source(s) shall be submitted on a form and in a manner as prescribed by the Commission, shall satisfy the notice requirements set forth in § 806.15, and shall be subject to review pursuant to the standards set forth in subpart C of this part. Any approval issued hereunder shall be further subject to any approval or authorization required by the member State to utilize such source(s).

7. In § 806.24, add paragraph (c)(2), to read as follows:

§ 806.24 Standards for diversions.

* * * * *

(c) * * *

(2) In deciding whether to approve a proposed diversion into the basin, the Commission shall also consider and the project sponsor shall provide information related to the following factors:

(i) Any adverse effects and cumulative adverse effects the project may have on the Susquehanna River Basin, or any portion thereof, as a result of the introduction or potential introduction of invasive or exotic species that may be injurious to the water resources of the basin.

(ii) The extent to which the proposed diversion satisfies all other applicable standards set forth in subpart C of this part.

8. Revise § 806.35 to read as follows:

§ 806.35 Fees.

Project sponsors shall have an affirmative duty to pay such fees as established by the Commission to cover its costs of administering the regulatory program established by this part, including any extraordinary costs associated with specific projects.

PART 808—HEARINGS AND ENFORCEMENT ACTIONS

Subpart A—Conduct of Hearings

10. The authority citation for Part 808 continues to read as follows:

Authority: Secs. 3.4, 3.5(5), 3.8, 3.10 and 15.2, Pub. L. 91–575, 84 Stat. 1509 *et seq.*

11. In § 808.2, revise paragraphs (a), (b), (c), (d), (e), (f), (g), and (h) to read as follows:

§ 808.2 Administrative appeals.

(a) A project sponsor or other person aggrieved by a final action or decision of the Commission or Executive Director on a project application or a records access determination made pursuant to Commission policy may file a written appeal requesting a hearing. Except with respect to project approvals or denials, such appeal shall be filed with the Commission within 30 days of the action or decision. In the case of a project approval or denial, such appeal shall be filed by a project sponsor within 30 days of receipt of actual notice, and by all others within 30 days of publication of notice of the action taken on the project in the **Federal Register**. In the case of records access

determinations, such appeal shall be filed with the Commission within 30 days of receipt of actual notice of the determination.

(b) The appeal shall identify the specific action or decision for which a hearing is requested, the date of the action or decision, the interest of the person requesting the hearing in the subject matter of the appeal, and a statement setting forth the basis for objecting to or seeking review of the action or decision. Appeals omitting any of these elements will be considered incomplete and not considered by the Commission.

(c) Any request not filed on or before the applicable deadline established in paragraph (a) of this section hereof will be deemed untimely and such request for a hearing shall be considered denied unless the Commission otherwise authorizes it nunc pro tunc. Receipt of requests for hearings, pursuant to this section, whether timely filed or not, shall be submitted by the Executive Director to the commissioners for their information.

(d) Petitioners shall be limited to a single filing that shall set forth all matters and arguments in support thereof, including any ancillary motions or requests for relief. Issues not raised in this single filing shall be considered waived and filings may only be amended or supplemented upon leave of the Executive Director. Where the petitioner is appealing a final determination on a project application and is not the project sponsor, the petitioner shall serve a copy of the appeal upon the project sponsor within five days of its filing.

(e) If granted, hearings shall be held not less than 20 days after notice appears in the **Federal Register**. Hearings may be conducted by one or more members of the Commission, by the Executive Director, or by such other hearing officer as the Commission may designate.

(1) The petitioner may also request a stay of the action or decision giving rise to the appeal pending final disposition of the appeal, which stay may be granted or denied by the Executive Director after consultation with the Commission chair and the member from the affected member State. The decision of the Executive Director on the request for stay shall not be appealable to the Commission under this section and shall remain in full force and effect until the Commission acts on the appeal.

(2) In addition to the contents of the request itself, the Executive Director, in granting or denying the request for stay, will consider the following factors:

(i) Irreparable harm to the petitioner.

(ii) The likelihood that the petitioner will prevail.

(f) The Commission shall grant the hearing request pursuant to this section if it determines that an adequate record with regard to the action or decision is not available, the case involves a determination by the Executive Director or staff which requires further action by the Commission, or that the Commission has found that an administrative review is necessary or desirable. If the Commission denies any request for a hearing, the party seeking such hearing shall be limited to such remedies as may be provided by the compact or other applicable law or court rule.

(g) If a hearing is granted, the Commission shall refer the matter for hearing to be held in accordance with § 808.3, and appoint a hearing officer.

(h) *Intervention.* (1) A request for intervention may be filed with the Commission by persons other than the petitioner within 20 days of the publication of a notice of the granting of such hearing in the **Federal Register.** The request for intervention shall state the interest of the person filing such notice, and the specific grounds of objection to the action or decision or other grounds for appearance. The hearing officer(s) shall determine whether the person requesting intervention has standing in the matter that would justify their admission as an intervener to the proceedings in accordance with Federal case law.

(2) Interveners shall have the right to be represented by counsel, to present evidence and to examine and cross-examine witnesses.

* * * * *

Dated: June 15, 2010.

Thomas W. Beauduy,

Deputy Director.

[FR Doc. 2010–15282 Filed 6–24–10; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1310

[Docket No. DEA–228P]

RIN 1117–AA66

Chemical Mixtures Containing Listed Forms of Phosphorus and Change in Application Process

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The DEA is proposing regulations which establish those chemical mixtures containing red phosphorus, white phosphorus (also known as yellow phosphorus), or hypophosphorous acid and its salts (hereinafter "regulated phosphorus") that shall automatically qualify for exemption from the Controlled Substances Act (CSA) regulatory controls. DEA is proposing that chemical mixtures containing red phosphorus in a concentration of 80 percent or less and mixtures containing hypophosphorous acid and its salts (hypophosphite salts) in a concentration of 30 percent and less, shall qualify for automatic exemption. DEA is not proposing automatic exemption for chemical mixtures containing white phosphorus. Unless otherwise exempted, all material containing white phosphorus shall become subject to CSA chemical regulatory controls regardless of concentration.

DEA recognizes that concentration criteria alone cannot identify all mixtures that warrant exemption, therefore, an application process has been implemented which allows manufacturers to apply for exemption from CSA regulatory controls for those phosphorus chemical mixtures that do not qualify for automatic exemption. This rulemaking also proposes changes to the application review and notification process.

While preparing this rulemaking, DEA became aware that references to section 1018 of the Act (21 U.S.C. 971) were inadvertently omitted from 21 CFR 1310.12(a) and 1310.13(i). Therefore, DEA is proposing that this rulemaking amend these sections by adding this citation. This insertion is a clarification and does not alter the current treatment of exempt chemical mixtures under the CSA.

DATES: Written comments must be postmarked, and electronic comments must be sent, on or before August 24, 2010.

ADDRESSES: To ensure proper handling of comments, please reference "Docket No. DEA–228P" on all written and electronic correspondence. Written comments being sent via regular mail should be sent to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152. Attention: DEA Federal Register Representative/ODL. Written comments sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, VA 22152.

Comments may be directly sent to DEA electronically by sending an electronic message to *dea.diversion.policy@usdoj.gov.* Comments may also be sent electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document is also available at the *http://www.regulations.gov* Web site. DEA will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file format other than those specifically listed here.

Posting of Public Comments: Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov* and in the Drug Enforcement Administration's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the Drug Enforcement Administration's public docket file. Please note that the Freedom of Information Act applies to all comments received. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION** paragraph.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, Ph.D., Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152. Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION:

DEA's Legal Authority

DEA implements the Comprehensive Drug Abuse Prevention and Control Act of 1970, often referred to as the Controlled Substances Act (CSA) and Controlled Substances Import and Export Act (21 U.S.C. 801–971), as amended. DEA publishes the implementing regulations for these statutes in Title 21 of the Code of Federal Regulations (CFR), Parts 1300 to end. These regulations are designed to ensure that there is a sufficient supply of controlled substances for legitimate medical purposes and to deter the diversion of controlled substances to illegal purposes. The CSA mandates that DEA establish a closed system of control for manufacturing, distributing, and dispensing controlled substances. Any person who manufactures, distributes, dispenses, imports, exports, or conducts research or chemical analysis with controlled substances must register with DEA (unless exempt) and comply with the applicable requirements for the activity. The CSA as amended also requires DEA to regulate the manufacture, distribution, importation, and exportation of chemicals that may be used to manufacture controlled substances. Listed chemicals that are classified as List I chemicals are important to the manufacture of controlled substances. Those classified as List II chemicals may be used to manufacture controlled substances.

Purpose of This Rule

In this rule, DEA is proposing concentration limits on chemical mixtures containing red phosphorus and/or hypophosphorous acid and its salts. If this rule is finalized as proposed, chemical mixtures containing either of these listed chemicals at or below the concentration limit would be automatically exempt from Controlled Substances Act (CSA) regulatory controls. Mixtures containing these chemicals above the concentration limit would be regulated as List I chemicals. DEA is not proposing automatic exemption for chemical mixtures containing white phosphorus. Unless otherwise exempted, all material containing white phosphorus shall become subject to CSA chemical regulatory controls regardless of concentration.

DEA's Requirement To Identify Exempt Chemical Mixtures

The Chemical Diversion and Trafficking Act of 1988 (Pub. L. 100–690) (CDTA) created a definition for the term "chemical mixture" (21 U.S.C. 802(40)). The CDTA established 21 U.S.C. 802(39)(A)(vi) to exclude "any transaction in a chemical mixture" from the definition of a "regulated transaction." This exemption was exploited by those that traffic chemicals for illicit purposes in that it provided an unregulated source for obtaining listed chemicals for use in the illicit manufacture of controlled substances.

In April 1994, the Domestic Chemical Diversion Control Act of 1993 (DCDCA) corrected this situation by subjecting such chemical mixtures to CSA regulatory requirements, unless specifically exempted by regulation. These requirements included recordkeeping, reporting, and security for all regulated chemical mixtures with the additional requirement of registration for handlers of List I chemicals including regulated chemical mixtures. The DCDCA also provided the Attorney General with the authority to establish regulations to exempt chemical mixtures from the definition of a "regulated transaction." A chemical mixture can be granted exemption "based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered" (21 U.S.C. 802(39)(A)(vi)).

DEA has treated all regulated chemical mixtures as non-regulated chemicals until such time that it promulgates a final rule that identifies specific chemical mixtures as exempt. This served to prevent the immediate regulation of all qualified mixtures, which is not necessary. It also allowed DEA to gather information to implement regulations pursuant to 21 U.S.C. 802(39)(A)(vi).

Chemical Mixture Definition

Title 21 U.S.C. 802(40) defines the term "chemical mixture" as "a combination of two or more chemical substances, at least one of which is not a List I chemical or a List II chemical, except that such term does not include any combination of a List I chemical or a List II chemical with another chemical that is present solely as an impurity." Therefore, a chemical mixture contains any number of listed chemicals in

combination with any number of non-listed chemicals.

DEA does not consider a chemical mixture to mean the combination of a listed chemical and an inert carrier. An inert carrier can be any chemical that does not modify the function of the listed chemical but is present to aid in the delivery of the listed chemical. Examples include, but are not limited to, dilutions in water, alcohol or the presence of a carrier gas.

In determining which chemical mixtures shall be subject to control, DEA considers the actual and potential clandestine use of such material. 21 U.S.C. 802(39)(A)(vi) states that an exemption can be granted if "the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered." It should be noted that the requirements described by statute do not allow for exemptions based on such business practices as selling only to known customers, the cost of the mixture, the customer's knowledge of the product's chemical content, packaging, or such related topics.

In 2003, DEA published a Final Rule (68 FR 23195, May 1, 2003) that identified exempt mixtures containing the chemicals ephedrine, N-methylephedrine, N-methylpseudoephedrine, norpseudoephedrine, phenylpropanolamine, and pseudoephedrine. The effective date of this Final Rule was June 2, 2003. In a second Final Rule (69 FR 74957, December 15, 2004; corrected at 70 FR 294, January 4, 2005) DEA finalized regulations which addressed the exemption of chemical mixtures for 27 of the remaining 38 listed chemicals. However, chemical mixtures containing phosphorus were not included. The effective date for that Final Rule was January 14, 2005.

Uses of Chemical Mixtures Containing Regulated Phosphorus

Chemical mixtures that contain red phosphorus are used in the manufacture of plastics, flame retardants, pyrotechnics, striker plates (*e.g.,* for safety matches and flares), incendiary shells, smoke bombs, and tracer bullets. Chemical mixtures containing hypophosphorous acid salts (*e.g.,* hypophosphite salts) function as catalysts, stabilizers, and growth inhibitors. They are used in plastics, films, paints, paper products, and fibers, with applications that include automotive parts, furniture, wiring, containers, and housings for appliances and power tools. DEA has not identified any chemical mixtures containing white phosphorus.

Information Gathered by DEA Concerning Chemical Mixtures Containing Regulated Phosphorus

On January 31, 2003, DEA published in the **Federal Register** an Advance Notice of Proposed Rulemaking (ANPRM) (68 FR 4968) to solicit input from industry regarding chemical mixtures containing regulated phosphorus. The ANPRM invited interested persons to supply information on formulations that contain regulated phosphorus. DEA received three responses to this request, all from industrial firms. In addition, DEA obtained information on types of formulations containing regulated phosphorus and their uses separate from the ANPRM.

All three commenters informed DEA of commercial applications for their chemical mixtures containing regulated phosphorus, which are discussed below. The commenters also informed DEA of concentration ranges for red phosphorus and salts of hypophosphorous acid (e.g. hypophosphite salts). DEA has not identified any chemical mixtures containing hypophosphorous acid or white phosphorus either through industry comments or as a result of DEA research.

Comments to the ANPRM

One commenter stated that its red phosphorus is stabilized against chemical reactions prior to its use by industry. To achieve this, the red phosphorus is blended with other chemicals to become part of a matrix that protects it from chemical reactions. The amount of red phosphorus formulated in these types of chemical mixtures is not more than 50 percent. The comment claimed that such red phosphorus cannot be used for the illicit production of methamphetamine.

Another commenter reported that red phosphorus is formulated with dust suppressing agents. These chemical mixtures have applications as raw material used in different industrial sectors, including in the manufacturing of flame retardants, pyrotechnics, matches, and pesticides. The concentration of red phosphorus in these raw materials/chemical mixtures is generally above 90 percent.

Two commenters informed DEA that sodium hypophosphite, a regulated salt of hypophosphorous acid, is used in low concentrations as a stabilizer or as a catalyst. Chemical mixtures for these applications are formulated within a range of less than one percent to no greater than 20 percent in sodium hypophosphite. Both commenters claimed that these formulations are not useful to traffickers.

Diversion of Chemical Mixtures Containing Regulated Phosphorus

Regulated phosphorus plays an important role in the chemical reaction to produce methamphetamine, a schedule II controlled substance for which the public health consequences of the manufacture, trafficking, and abuse are well known and documented. DEA has documented that the predominant method for the illicit manufacture of methamphetamine utilizes phosphorus.

DEA has identified chemical mixtures containing red phosphorus at domestic illicit methamphetamine manufacturing sites. Traffickers sometimes utilize the striker plates of safety matchbooks or boxes, or road flares as a source of red phosphorus. The coating on the striker plate contains from 25 to 60 percent red phosphorus. An estimated 20 to 400 striker plates are needed to obtain one gram of red phosphorus. One gram of red phosphorus could yield approximately 1.5 grams of methamphetamine hydrochloride, which is the end product of clandestine manufacturing. DEA conducted a review of data collected by the El Paso Intelligence Center (EPIC), which collects data on clandestine laboratory seizures by federal and state authorities. In 2004, EPIC reported 4,454 methamphetamine laboratories that utilized red phosphorus; 458 of these obtained the red phosphorus from matchbook striker plates, which is approximately ten percent of the total.

EPIC does not report the potential amount of methamphetamine produced from red phosphorus extracted from striker plates. However, only the smallest illicit laboratories (in terms of production capability) are known to use extracted red phosphorus, and these individuals manufacture predominantly for personal use. Although ten percent of the laboratories use extracted red phosphorus, the total amount of methamphetamine produced by these laboratories is relatively small. Large scale methamphetamine laboratories which have been identified by DEA have historically utilized bulk red phosphorus and not red phosphorus extracted from striker plates.

Proposed Concentration Limits for Exempt Chemical Mixtures Containing Regulated Phosphorus

DEA is proposing to establish concentration limits for chemical

mixtures containing phosphorus. If finalized as proposed, all chemical mixtures that have a concentration at or below the established concentration limit shall be automatically exempt from CSA chemical regulatory controls. Those chemical mixtures having a concentration above the concentration limit shall be List I regulated chemicals and subject to the chemical regulatory requirements of the CSA.

DEA is not aware of any chemical mixtures containing white phosphorus. It is believed that few chemical mixtures in this chemical exist because it is too reactive and unstable when mixed with other chemicals. Since DEA has not identified any white phosphorus mixtures, DEA is not proposing a concentration limit for white phosphorus and therefore, any chemical mixture containing white phosphorus would be subject to CSA regulatory control.

Hypophosphorous acid is marketed in aqueous solutions of 50 percent and can be readily used in the illicit manufacture of methamphetamine. Such aqueous solutions of hypophosphorous acid, however, are not considered chemical mixtures and are therefore currently subject to DEA chemical regulations, regardless of concentration. (As stated earlier, DEA does not consider a chemical mixture to mean the combination of a listed chemical and an inert carrier. An inert carrier can be any chemical that does not modify the function of the listed chemical but is present to aid in the delivery of the listed chemical. Examples include, but are not limited to, dilutions in water, alcohol or the presence of a carrier gas.) No chemical mixtures containing hypophosphorous acid have been identified by DEA.

Traffickers use hypophosphite salts and hypophosphorous acid similarly. DEA has identified several chemical mixtures containing hypophosphite salts in combination with other chemicals for use as mold and mildew inhibitors. Additionally, DEA has identified at least one industrial product where sodium hypophosphite is in a chemical mixture in combination with resins. The concentration of hypophosphite salts within these chemical mixtures does not exceed 20 percent.

The above chemical mixtures have limited potential for use in a clandestine laboratory because of the (a) low concentrations of the hypophosphite salts, and (b) interference from other chemicals in the mixtures. Therefore, DEA is proposing that a 30 percent concentration limit for hypophosphorous acid and its salts (hypophosphite salts) be established.

It is important to clarify, again, that DEA does not consider a chemical mixture to mean the combination of a listed chemical and an inert carrier. Therefore, solutions of hypophosphorous acid or hypophosphite salt in water, alcohol, or another inert carrier, are not considered chemical mixtures and are therefore currently subject to DEA chemical regulatory controls regardless of concentration.

As discussed above, only the smallest clandestine methamphetamine laboratories use chemical mixtures obtained from matchbook striker plates as a source of red phosphorus. Although concerned about this type of diversion, DEA determined that the regulation of matchbook striker plates is impractical and will create undue administrative burdens for both law enforcement and the regulated sector.

DEA is proposing an 80 percent concentration limit for red phosphorus. DEA has determined that chemical mixtures containing over 80 percent red phosphorus are useful in large-scale methamphetamine production and therefore should not be automatically exempt from regulatory controls.

A chemical mixture having a regulated form of phosphorus at or below the concentration limit can still be a regulated chemical mixture if another listed chemical is present above its concentration limit. The exemption of chemical mixtures from regulatory controls does not remove criminal liability for persons who knowingly sell or possess any products containing regulated phosphorus for use in violation of the CSA.

Exemption by Application Process

DEA recognizes that the concentration limits proposed in this rule may not identify all phosphorus mixtures that should receive exemption status. DEA has implemented an application process to exempt additional mixtures (21 CFR 1310.13). This application process was finalized in the Final Rule (68 FR 23195) published May 1, 2003. Under the application process, manufacturers may submit an application for exemption for those mixtures that do not qualify for automatic exemption. Exemption status can be granted if DEA determines that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and the listed chemical cannot be readily recovered (i.e., it meets the conditions in 21 U.S.C. 802(39)(A)(vi)). An application may be for a single or a multiple number of formulations. All chemical mixtures which are granted exemption via the application process will be listed in 21 CFR 1310.13(i).

This rulemaking is also proposing changes to the existing application process. 21 CFR 1310.13(e) provides that within 30 days after the receipt of an application for an exemption, the Administrator will notify the applicant of acceptance or rejection of the application. This paragraph is proposed to be modified in order to clarify that this acceptance or rejection only pertains to the acceptance or rejection of the application "for filing" and does not pertain to the granting or denial of the application based upon the merits of the application. Furthermore, DEA is proposing that this paragraph be modified by removing the 30-day timeframe for notification, and instead, specify that such notification be "in writing" and "within a reasonable period of time".

Thresholds and Excluded Transactions for Regulated Phosphorus Chemical Mixtures

Regulated phosphorus compounds do not have a threshold as described in 21 CFR 1310.04(g)(1). Thus, all transactions in regulated phosphorus, including its regulated chemical mixtures, are regulated transactions. Certain transactions, described in 21 CFR 1310.08, are excluded from the definition of a regulated transaction. These are domestic and international return shipments of reusable containers from customer to producer containing residual quantities of red phosphorus or white phosphorus in rail cars and intermodal tank containers which conform to International Standards Organization specifications (with capacities greater than or equal to 2,500 gallons in a single container). This exclusion also applies to regulated chemical mixtures containing red phosphorus or white phosphorus.

Requirements That Apply to Regulated List I Chemical Mixtures

Persons interested in handling List I chemicals, including regulated chemical mixtures containing List I chemicals, must comply with the following:

Registration. Any person who manufactures, distributes, imports, or exports a List I chemical, or proposes to engage in the manufacture, distribution, importation, or exportation of a List I chemical, must obtain a registration pursuant to the CSA (21 U.S.C. 823, 957). Regulations describing registration for List I chemical handlers are set forth in 21 CFR part 1309.

Separate registration is required for manufacturing, distribution, importing, and exporting. Different locations operated by a single entity require separate registration if any location is involved with the manufacture, distribution, import, or export of a List I chemical. Any person manufacturing, distributing, importing, or exporting a regulated List I chemical mixture is subject to the registration requirement under the CSA. DEA recognizes, however, that it is not possible for persons who manufacture, distribute, import, or export regulated phosphorus compounds, to immediately complete and submit an application for registration and for DEA to issue registrations immediately for those activities. Therefore, to allow continued legitimate commerce in the compounds, DEA is proposing to establish in 21 CFR 1310.09 a temporary exemption from the registration requirement for persons desiring to manufacture, distribute, import, or export regulated phosphorus compounds, provided that DEA receives a properly completed application for registration on or before 30 days after DEA publishes a Final Rule finalizing these requirements in the **Federal Register**. The temporary exemption for such persons will remain in effect until DEA takes final action on their application for registration.

The temporary exemption applies solely to the registration requirement; all other chemical control requirements, including recordkeeping and reporting, will remain in effect. Additionally, the temporary exemption does not suspend applicable federal criminal laws relating to the phosphorus compounds, nor does it supersede state or local laws or regulations. All handlers of these materials must comply with their state and local requirements in addition to the CSA and other federal regulatory controls.

DEA notes that warehouses are exempt from the requirement of registration and may lawfully possess List I chemicals, if the possession of those chemicals is in the usual course of business (21 U.S.C. 822(c)(2), 21 U.S.C. 957(b)(1)(B)). For purposes of this exemption, the warehouse must receive the List I chemical from a DEA registrant and shall only distribute the List I chemical back to the DEA registrant and registered location from which it was received. All other activities conducted by a warehouse do not fall under this exemption; a warehouse that distributes List I chemicals to persons other than the registrant and registered location from which they were obtained is conducting distribution activities and is required to register as such (21 U.S.C. 802(39)(A)(ii)).

Records and Reports. The CSA (21 U.S.C. 830) requires that certain records be kept and reports be made that involve listed chemicals. Regulations describing recordkeeping and reporting requirements are set forth in 21 CFR part 1310. A record must be made and maintained for two years after the date of a transaction involving a listed chemical, provided the transaction is a regulated transaction.

Each regulated bulk manufacturer of a regulated mixture shall submit manufacturing, inventory and use data on an annual basis (21 CFR 1310.05(d)). Bulk manufacturers producing the mixture solely for internal consumption, *e.g.,* formulating a non-regulated mixture, are not required to submit this information. Existing standard industry reports containing the required information are acceptable, provided the information is readily retrievable from the report.

Title 21 CFR 1310.05 requires that each regulated person shall report to DEA any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of the CSA. Regulated persons are also required to report to DEA any proposed regulated transaction with a person whose description or other identifying information has been furnished to the regulated person. Finally, regulated persons are required to report any unusual or excessive loss or disappearance of a listed chemical.

Import/Export. All imports/exports of a listed chemical shall comply with the CSA (21 U.S.C. 957 and 971). Regulations for importation and exportation of List I chemicals are described in 21 CFR part 1313. Separate registration is necessary for each activity (21 CFR 1309.22).

Security. All applicants and registrants shall provide effective controls against theft and diversion of chemicals as described in 21 CFR 1309.71.

Administrative Inspection. Places, including factories, warehouses, or other establishments and conveyances, where regulated persons may lawfully hold, manufacture, or distribute, dispense, administer, or otherwise dispose of a regulated chemical/chemical mixture, or where records relating to those activities are maintained, are controlled premises as defined in 21 CFR 1316.02(c). The CSA (21 U.S.C. 880) allows for administrative inspections of these controlled premises as provided in 21 CFR 1316 subpart A.

The goal of this rulemaking is to deny traffickers access to regulated phosphorus compounds while minimizing the burden on legitimate industry. Persons who obtain a regulated chemical, but do not distribute the chemical, are end users. End users are not subject to CSA chemical regulatory control provisions such as registration or recordkeeping requirements. Some examples of end users are those who chemically react phosphorus compounds and change them into non-listed chemicals, formulate phosphorus compounds into exempt chemical mixtures or consume them in industrial processes.

Technical Revision to 21 CFR 1310.12(a) and 1310.13(i)

While preparing this rulemaking, DEA became aware that references to section 1018 of the Act (21 U.S.C. 971) were inadvertently omitted from 21 CFR 1310.12(a) and 1310.13(i). Therefore, DEA is proposing that this rulemaking amend these sections by adding this citation. This insertion is a clarification and does not alter the current treatment of exempt chemical mixtures under the CSA.

As DEA discussed in its December 15, 2004, Final Rule (specifically 69 FR 74963, comment 10) all chemical mixtures not exempt from CSA regulatory controls are subject to all aspects of those controls, including importation and exportation requirements. Thus, chemical mixtures that are exempt under 21 CFR 1310.12 and 1310.13 are also exempt from the requirements of Section 1018 of the Act (21 U.S.C. 971). The requirements of 21 U.S.C. 971 apply to "each regulated person, who imports or exports a listed chemical." Since a person distributing an exempt chemical mixture is not a "regulated person" as defined by 21 U.S.C. 802(38), that person is exempt from the requirements of 21 U.S.C. 971.

DEA notes that this is a technical correction only. All exempt chemical mixtures have been treated as such for import and export purposes, and all regulated mixtures have been treated as regulated transactions for import and export purposes. DEA is merely including a reference which was inadvertently omitted from this regulatory language.

Regulatory Certifications

Regulatory Flexibility and Small Business Concerns

The Deputy Administrator hereby certifies that this rulemaking has been

drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612). In the ANPRM, DEA sought information from manufacturers about the impact of setting concentration limits for chemical mixtures containing phosphorus. Only three companies, none small businesses, provided information. Some of the mixtures sold by one of the commenters would be subject to this proposed rule, but DEA could not determine whether any of the products that may be produced with those phosphorus mixtures would also be covered. DEA is, therefore, seeking comments on whether any of the products contain phosphorus would exceed the proposed concentration limits. DEA notes, however, that the cost of compliance with the rule is low and is unlikely to impose a significant cost on any manufacturing, distributing, importing, or exporting firm. The recordkeeping requirements can be met with standard business records; most firms maintain adequate security to meet DEA's regulations. The primary cost of compliance is the registration fee. For manufacturers, the registration fee is $2,293 annually; for distributors, importers, and exporters, the fee is $1,147 annually. These fees are substantially less than one percent of annual sales for manufacturers, distributors, importers, and exporters. Data from the 2002 Economic Census indicate that small chemical manufacturers generally have sales well above $1 million; most small chemical distributors have sales above $250,000.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, Section 1(b), Principles of Regulation. It has been determined that this rule is a "significant regulatory action" under Executive Order 12866, Section 3(f), Regulatory Planning and Review, and accordingly this rule has been reviewed by the Office of Management and Budget. The information DEA received in response to the ANPRM indicates that few phosphorus mixtures will be subject to the regulation. Those mixtures appear to be produced by current DEA registrants on whom the rule will impose no new requirements. DEA is seeking comments on whether any firms purchasing covered mixtures are producing products that would themselves be subject to the rule.

As stated earlier in this rulemaking the vast majority of the chemical mixtures that will become subject to this proposed rulemaking have large industrial uses. Regulated chemical mixtures are not items having common household uses. Although concerned about the diversion of matchbook striker plates, DEA determined that the regulation of matchbook striker plates is impractical and will create undue administrative burdens for both law enforcement and the regulated sector.

Benefits. Phosphorus is a chemical important in the clandestine manufacture of methamphetamine and amphetamine. This rule seeks to eliminate the use of certain chemical mixtures whose high concentrations of phosphorus make them valued by traffickers seeking this chemical for their clandestine laboratory operations.

Methamphetamine remains the primary drug produced in illicit laboratories within the U.S. Data from the El Paso Intelligence Center's (EPIC) Clandestine Laboratory Database indicates that there were more than 17,170 methamphetamine laboratory incidents in calendar year 2004; in 2005, as State laws began to limit sales of over-the-counter medications containing primary ingredients used in the illicit manufacture of methamphetamine (ephedrine, pseudoephedrine, and phenylpropanolamine), the number of incidents declined to 12,139. In 2006, with both State and Federal controls coming into effect, the number of incidents fell significantly to 7,347, but that is still about 20 clandestine laboratory incidents a day.

According to the Substance Abuse and Mental Health Services Administration (SAMHSA), Drug Abuse Warning Network, in 2003, the latest year for which data are available (since SAMHSA is currently amending 2004, 2005, and 2006 data), amphetamine and methamphetamine emergency department (ED) visits rose from 25,200 in 1995 to 38,960 in 2002 and 42,500 in 2003 If the cost of the ED visit is $500, which is probably low in many areas, the total cost for 42,500 visits would have been $21.25 million for 2003.

The surge in methamphetamine abuse and the manufacture of the drug in clandestine laboratories have caused serious law enforcement and environmental problems, particularly in rural communities. Rural areas are frequently the site of clandestine laboratories because the manufacturing process produces distinctive odors and can be identified if there are close neighbors. Besides causing crime as clandestine laboratory operators steal ingredients to make methamphetamine and steal to support their addiction, the clandestine laboratories often leave serious pollution behind. A laboratory can produce 6 to 10 pounds of hazardous waste for every pound of methamphetamine produced. As DEA noted in its Interim Final Rule implementing the retail sales requirements of the Combat Methamphetamine Epidemic Act of 2005 (CMEA) (Title VII of Pub. L. 109–172), clean-up costs in Fiscal Year 2006 were more than $12 million (71 FR 56008, September 26, 2006).

The Federal and State cleanups are generally limited to removing chemicals that could be reused; they do not address water and soil pollution that remains. Owners of the property are responsible for completing the cleanup of contaminated water and soil, but if the owner cannot pay the cost, either the local governments must bear the burden or the contamination remains.

This rule is intended to continue the trend of reducing the number of clandestine laboratories. This trend will reduce the cost to State and local governments as well as the hazard to law enforcement officers and others from exposure to the toxic chemicals left behind.

Executive Order 12988

This regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $120,000,000 or more (adjusted for inflation) in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or

on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act

This rule proposes that chemical mixtures containing 80 percent and less of red phosphorus or 30 percent and less of hypophosphorous acid or its salts are automatically exempt from CSA regulatory controls pertaining to chemicals and that no automatic exemption be established for chemical mixtures containing white phosphorus. Under this proposed method of automatic exemption, persons who handle these exempt chemical mixtures will not be subject to CSA regulatory controls, including the requirement to register with DEA, the requirement to report manufacturing activities to DEA annually, and the requirement to file importation and exportation advance notification and return declaration information with DEA. For persons handling regulated chemical mixtures, DEA anticipates granting some of these mixtures exempt status by the application process (21 CFR 1310.13).

At this time, DEA lacks specific information regarding the potential impact of this regulation on the regulated industry. DEA does not believe that the impact will be significant, and has been unable to identify any chemical mixtures that are certain to be affected by this regulation. DEA also anticipates that some chemical mixtures would be granted exemptions based on the application process.

DEA does not have reliable estimates regarding the number of persons who would be required to register as a result of the control of chemical mixtures containing regulated forms of phosphorus. Nor does DEA have accurate estimates regarding manufacturing, import and export activities involving chemicals mixtures addressed in this rulemaking. Responses to the previous Advance Notice of Proposed Rulemaking did not address this issue. Therefore, DEA is specifically seeking information regarding the number of persons affected, and the potential number of importation and exportation transactions that would be affected by this regulation. Therefore, DEA will revise three existing information collections related to the handling of chemical mixtures containing listed forms of phosphorus once it receives further information:

- "Application for Registration under Domestic Chemical Diversion Control Act of 1993 and Renewal Application for Registration under Domestic Chemical Diversion Control Act of 1993" [OMB information collection 1117–0031]
- "Annual Reporting Requirement for Manufacturers of Listed Chemicals" [OMB information collection 1117–0029]
- "Import/Export Declaration for List I and List II Chemicals" [OMB information collection 1117–0023]

List of Subjects in 21 CFR Part 1310

Drug traffic control, List I and List II chemicals, reporting requirements.

For the reasons set out above, 21 CFR Part 1310 is proposed to be amended as follows:

PART 1310— RECORDS AND REPORTS OF LISTED CHEMICALS AND CERTAIN MACHINES [AMENDED]

1. The authority citation for part 1310 continues to read as follows:

Authority: 21 U.S.C. 802, 827(h), 830, 871(b), 890.

2. Section 1310.09 is amended by revising paragraph (k) to read as follows:

§ 1310.09 Temporary Exemption From Registration.

* * * * *

(k) Each person required by Sections 302 and 1007 of the Act (21 U.S.C. 822 and 957) to obtain a registration to manufacture, distribute, import, or export regulated chemical mixtures which contain red phosphorus, white phosphorus, hypophosphorous acid (and its salts), pursuant to Sections 1310.12 and 1310.13, is temporarily exempted from the registration requirement, provided that DEA receives a properly completed application for registration or application for exemption on or before July 26, 2010. The exemption will remain in effect for each person who has made such application until the Administrator has approved or denied that application. This exemption applies only to registration; all other chemical control requirements set forth in parts 1309, 1310, and 1313 of this chapter remain in full force and effect. Any person who manufactures, distributes, imports, or exports a chemical mixture whose application for exemption is subsequently denied by DEA must obtain a registration with DEA. A temporary exemption from the registration requirement will also be provided for these persons, provided that DEA receives a properly completed application for registration on or before 30 days following the date of official DEA notification that the application for exemption has not been approved. The temporary exemption for such persons will remain in effect until DEA takes final action on their registration application.

3. Section 1310.12 is amended by revising paragraph (a) and by amending the Table of Concentration Limits in paragraph (c) by adding entries for "hypophosphorous acid and its salts", "red phosphorus", and "white phosphorus" in alphabetical order to read as follows:

§ 1310.12 Exempt Chemical Mixtures.

(a) The chemical mixtures meeting the criteria in paragraphs (c) or (d) of this Section are exempted by the Administrator from application of Sections 302, 303, 310, 1007, 1008, and 1018 of the Act (21 U.S.C. 822, 823, 830, 957, 958, and 971) to the extent described in paragraphs (b) and (c) of this Section.

* * * * *

(c) * * *

TABLE OF CONCENTRATION LIMITS

List I chemicals	DEA chemical code number	Concentration (percent)	Special conditions
*	*	*	* * * *
Hypophosphorous acid and its salts.	6797	30% by weight if a solid, weight or volume if a liquid.	The weight is determined by measuring the mass of hypophosphorous acid and its salts in the mixture; the concentration limit is calculated by summing the concentrations of all forms of hypophosphorous acid and its salts in the mixture. The Administration does not consider a chemical mixture to mean the combination of a listed chemical and an inert carrier. Therefore, any solution consisting of hypophosphorous acid (and its salts), dispersed in water, alcohol, or another inert carrier, is not considered a chemical mixture and is therefore subject to chemical regulatory controls at all concentrations.

TABLE OF CONCENTRATION LIMITS—Continued

List I chemicals	DEA chemical code number	Concentration (percent)	Special conditions
*	*	*	* * * *
Red Phosphorus	6795	80% by weight.	
*	*	*	* * * *
White phosphorus ...	6796	Not exempt at any concentration.	Chemical mixtures containing any amount of white phosphorus are not exempt due to concentration, unless otherwise exempted.
*	*	*	* * * *
List II chemicals.			
*	*	*	* * * *

* * * * *

4. Section 1310.13 is amended by revising paragraph (e) and paragraph (i) introductory text to read as follows:

§ 1310.13 Exemption of chemical mixtures; application.

* * * * *

(e) Within a reasonable period of time after the receipt of an application for an exemption under this section, the Administrator will notify the applicant in writing of the acceptance or rejection of the application for filing. If the application is not accepted for filing, an explanation will be provided. The Administrator is not required to accept an application if any information required pursuant to paragraph (c) of this section or requested pursuant to paragraph (d) of this section is lacking or not readily understood. The applicant may, however, amend the application to meet the requirements of paragraphs (c) and (d) of this section. If the exemption is subsequently granted, the applicant shall again be notified in writing and the Administrator shall issue, and publish in the **Federal Register**, an order on the application. This order shall specify the date on which it shall take effect. The Administrator shall permit any interested person to file written comments on or objections to the order. If any comments or objections raise significant issues regarding any findings of fact or conclusions of law upon which the order is based, the Administrator may suspend the effectiveness of the order until he has reconsidered the application in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, terminate, or amend the original order as deemed appropriate.

* * * * *

(i) The following chemical mixtures, in the form and quantity listed in the application submitted (indicated as the "date") are designated as exempt chemical mixtures for the purposes set forth in this section and are exempted by the Administrator from application of Sections 302, 303, 310, 1007, 1008, and 1018 of the Act (21 U.S.C. 822, 823, 830, 957, 958, and 971):

* * * * *

Dated: June 16, 2010.

Michele M. Leonhart,

Acting Administrator.

[FR Doc. 2010–15160 Filed 6–24–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2010–0441]

RIN 1625–AA09

Drawbridge Operation Regulation; Arkansas Waterway, Pine Bluff, AR

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes that operating procedures on the Rob Roy Drawbridge across the Arkansas Waterway at mile 67.4 at Pine Bluff, AR be revised in the Code of Federal Regulations to reflect that vessel operators contact the remote drawbridge operator via microphone keying on VHF–FM Channel 12 when requesting a draw opening. This keying activates an indicator on the remote drawbridge operator's console and sends an acknowledgement tone back to the vessel and the remote drawbridge operator then establishes normal verbal radio communications. This protocol is used to isolate and differentiate these radio communications from the railroad communications that the remote drawbridge operator receives, thus ensuring that vessel calls receive immediate attention.

DATES: Comments and related material must reach the Coast Guard on or before August 24, 2010.

ADDRESSES: You may submit comments identified by docket number USCG–2010–0441 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. *See* the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Mr. Eric Washburn, Bridge Administrator, Eighth Coast Guard District, Bridge Branch; telephone 314–269–2378, e-mail *Eric.Washburn@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to *http://www.regulations.gov* and will include

any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2010–0441), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rules" and insert "USCG–2010–0441" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½; by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2010–0441" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Arkansas Waterway is part of the McClellan-Kerr Arkansas River Navigation System. This system rises in the vicinity of Catoosa, OK and embraces improved natural waterways and a canal to empty into the Lower Mississippi River in southeast Arkansas. The Arkansas Waterway drawbridge operation regulations contained in 33 CFR 117.123(a) states that the draw of the Rob Roy Drawbridge, mile 67.4, at Pine Bluff, AR is maintained in the closed position and is remotely operated. Vessels requesting an opening shall establish contact by radiotelephone with the remote drawbridge operator on VHF–FM Channel 12 in Omaha, NE. In order to better differentiate between vessel and land traffic communications at the remote drawbridge operator consol, vessel operators key their microphones four times in five seconds and receive an acknowledgement tone from the remote drawbridge operator stationed at the Union Pacific Harriman Center in Omaha, NE. The keying-in initiates an indicator on the remote drawbridge operator's consol and the remote drawbridge operator then establishes normal verbal radio communications on VHF–FM Channel 12. The Coast Guard met with Union Pacific personnel, owner of the subject bridge, at the Harriman Center to discuss the actual procedures and witnessed a test to view how communications work and how the consol is monitored. The Coast Guard has determined that this regulatory change would improve communications between the remote drawbridge operator and vessel operators and reduce delays due to missed calls by isolating vessel contacts from railroad contacts at the Harriman Center.

Discussion of Proposed Rule

The proposed changes to 33 CFR 117.123(a) will reflect how draw openings are currently performed at the Rob Roy Drawbridge.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule on commercial traffic operating on the Arkansas Waterway to be so minimal that a full Regulatory Evaluation is unnecessary. The operating procedures are already in place at a different bridge on the same waterway and vessel operators are accustomed to the procedures.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule is neutral to all business entities since it only alters the initial contact between vessels and the drawbridge operator and the Rob Roy Drawbridge is still required to open on demand for vessels.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see*

ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Mr. Eric Washburn, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at 314–269–2378. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, and Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

2. Revise 117.123(a) to read as follows:

§ 117.123 Arkansas Waterway.

(a) Across the Arkansas Waterway, the draw of the Rob Roy Drawbridge, mile 67.4, at Pine Bluff, Arkansas is maintained in the closed to navigation position and is remotely operated. Any vessel which requires an opening of the draw of this bridge shall establish contact by radiotelephone with the remote drawbridge operator on VHF–FM Channel 12 in Omaha, NE. To establish contact, the vessel shall key the radio microphone four times in five seconds and listen for an acknowledgement tone. The remote drawbridge operator will then establish normal verbal radio communications on VHF–FM Channel 12 and advise the vessel whether the requested span can be immediately opened and will maintain constant contact with the vessel until the requested span has opened and the vessel passage has been completed. The bridge is equipped with

a Photoelectric Boat Detection System to prevent the span from lowering if there is an obstruction under the span. If the drawbridge cannot be opened immediately, the remote drawbridge operator will notify the calling vessel and provide an estimated time for a drawbridge opening.

* * * * *

Dated: June 11, 2010.

Mary E. Landry,

Rear Admiral, U.S. Coast Guard, Commander 8th Coast Guard District.

[FR Doc. 2010–15397 Filed 6–24–10; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2010–0113; FRL–9168–4]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Determination of Attainment of the 1997 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to determine that the Baton Rouge, Louisiana moderate 1997 8-hour ozone nonattainment area has attained the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ozone. This proposed determination is based upon complete, quality assured, certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS since the 2006–2008 monitoring period, and continues to monitor attainment of the NAAQS based on 2009 data. If this proposed determination is made final, under the provisions of EPA's ozone implementation rule, the requirements for this area to submit an attainment demonstration, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans related to attainment of the 1997 8-hour ozone NAAQS shall be suspended for so long as the area continues to attain the 1997 ozone NAAQS.

DATES: Written comments must be received on or before July 26, 2010.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2010–0113, by one of the following methods:

Federal Rulemaking Portal: http://www.regulations.gov. Follow the on-line instructions for submitting comments.

U.S. EPA Region 6 "*Contact Us*" *Web site: http://epa.gov/region6/r6coment.htm.* Please click on "6PD"(Multimedia) and select "Air" before submitting comments.

E-mail: Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by email to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

Fax: Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.

Mail: Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Hand or Courier Delivery: Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2010–0113. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or e-mail that you consider to be CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an anonymous access system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a fee of 15 cents per page for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Rennie, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7367, fax (214) 665–7263, e-mail address *rennie.Sandra@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. What action Is EPA taking?
II. What is the effect of this action?
III. What is the background for this action?
IV. What is EPA's analysis of the relevant Air Quality Data?
V. Proposed Action
VI. Statutory and Executive Order Reviews

I. What action is EPA taking?

EPA is proposing to determine that the Baton Rouge, Louisiana moderate 1997 8-hour ozone nonattainment area (hereafter the Baton Rouge area) has attained the 1997 8-hour National Ambient Air Quality Standard (NAAQS) for ozone. This proposed determination is based upon complete, quality assured and certified ambient air monitoring data that show the area has monitored attainment of the ozone NAAQS since

the 2006–2008 monitoring period, and monitoring data that continue to show attainment of the NAAQS based on 2009 data in the Air Quality System (AQS) database. Preliminary data available to date for the 2010 ozone season are also consistent with continued attainment.

II. What is the effect of this action?

If this proposed determination is made final, under the provisions of EPA's ozone implementation rule (*see* 40 CFR Section 51.918), the requirements for the Baton Rouge area to submit an attainment demonstration, a reasonable further progress plan, section 172(c)(9) contingency measures, and any other State Implementation Plan (SIP) planning measures related to attainment of the 1997 8-hour ozone NAAQS would be suspended for so long as the area continues to attain the ozone NAAQS.

This proposed action, if finalized, would not constitute a redesignation to attainment under CAA section 107(d)(3), because we would not yet have an approved maintenance plan for the area as required under section 175A of the CAA, nor a determination that the area has met the other requirements for redesignation. The classification and designation status of the area would remain moderate nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that it meets all the CAA requirements for redesignation to attainment.

If this rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the area has violated the 1997 8-hour ozone standard, the basis for the suspension of these requirements would no longer exist, and the area would thereafter have to address the pertinent CAA requirements.

III. What is the background for this action?

On April 30, 2004 (*69 FR 23857*), EPA designated as nonattainment any area that was violating the 1997 8-hour ozone NAAQS based on the three most recent years (2001–2003) of air quality data. The Baton Rouge area (specifically, Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes) was designated as a marginal ozone nonattainment area. The Baton Rouge area was reclassified to moderate on March 21, 2008, effective on April 21, 2008 (73 FR 15087). Recent air quality data indicate that the Baton Rouge area is now attaining the 1997 8-hour ozone standard.

IV. What is EPA's analysis of the relevant air quality data?

The EPA has reviewed the Baton Rouge area's 2006–2008 ambient air monitoring data for ozone consistent with the requirements contained in 40 CFR part 50 and recorded in the EPA AQS database. On the basis of that review, EPA has concluded that this area attained the 1997 8-hour ozone standard at the end of the 2008 ozone season, based on three years of complete, quality-assured and state certified 2006–2008 ozone data. In addition, ozone data for 2007–2009, also in AQS, show the area continues to attain the 1997 8-hour ozone NAAQS. Under EPA regulations at 40 CFR part 50, the 1997 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.08 parts per million (ppm) (*i.e.,* 0.084 ppm, based on the rounding convention in 40 CFR part 50, Appendix I). This 3-year average is referred to as the design value. When the design value is less than or equal to 0.084 ppm at each monitor within the area, then the area is meeting the NAAQS. (*See 69 FR 23857* (April 30, 2004) for further information.) Also, the data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness as determined in Appendix I of 40 CFR part 50.

Table 1 shows the fourth-highest daily maximum 8-hour average ozone concentrations for the Baton Rouge, Louisiana nonattainment area monitors for the years 2006–2009.

TABLE 1—FOURTH HIGH 8-HOUR OZONE AVERAGE CONCENTRATIONS AND DESIGN VALUES (PPM) IN THE BATON ROUGE AREA [1]

Site	4th Highest daily max				Design values three year averages	
	2006	2007	2008	2009	2006–2008	2007–2009
Plaquemine (22–047–0009)	0.083	0.079	0.076	0.071	0.079	0.075
Carville (22–047–0012)	0.085	0.086	0.073	0.076	0.081	0.078
Dutchtown (22–005–0004)	0.087	0.088	0.074	0.074	0.083	0.078
Baker (22–033–1001)	0.091	0.077	0.071	0.071	0.079	0.073
LSU (22–033–0003)	0.085	0.085	0.072	0.084	0.080	0.080
Grosse Tete (22–047–0007)	0.086	0.084	0.071	0.070	0.080	0.075
Port Allen (22–121–0001)	0.087	0.076	0.072	0.072	0.078	0.073
Pride (22–033–0013)	0.082	0.077	0.074	0.072	0.077	0.074
French Settlement (22–063–0002)	0.079	0.084	0.075	0.075	0.079	0.078
Capitol (22–033–0009)	0.084	0.074	0.067	0.076	0.075	0.072

[1] Unlike for the 1-hour ozone standard, design value calculations for the 1997 8-hour ozone standard are based on a rolling three-year average of the annual 4th highest values (40 CFR part 50, Appendix I).

EPA's review of these data shows that the Baton Rouge ozone nonattainment area has met and continues to meet the 1997 8-hour ozone NAAQS. Data for 2007–2009, show the area continues to attain the 1997 8-hour ozone NAAQS. Preliminary data available to date for the 2010 ozone season are consistent with continued attainment. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters pertaining to this rulemaking action. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Region 6 Office listed in the **ADDRESSES** section of this **Federal Register**.

V. Proposed Action

EPA is proposing to determine that the Baton Rouge 1997 8-hour ozone moderate nonattainment area has attained the 1997 8-hour ozone standard, based on complete, quality assured data through 2008, and data for

2007–2009 indicating continued attainment. Preliminary data for the 2010 ozone season available to date are consistent with continued attainment. As provided in 40 CFR 51.918, if EPA finalizes this determination, it would suspend the requirements for the Baton Rouge area to submit planning SIPs related to attainment of the 1997 8-hour ozone NAAQS for this area, for so long as the area continues to attain the standard.

VI. Statutory and Executive Order Reviews

This action proposes to make a determination of attainment based on air quality, and would, if finalized, result in the suspension of certain Federal requirements, and would not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401, *et seq.*

Dated: June 14, 2010.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 2010–15471 Filed 6–24–10; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 100216088–0093–01]

RIN 0648–AY69

List of Fisheries for 2011

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: The National Marine Fisheries Service (NMFS) publishes its proposed List of Fisheries (LOF) for 2011, as required by the Marine Mammal Protection Act (MMPA). The proposed LOF for 2011 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of serious injury and mortality of marine mammals that occurs incidental to each fishery. The classification of a fishery in the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

DATES: Comments must be received by August 24, 2010.

ADDRESSES: Send comments by any one of the following methods.

(1) *Electronic Submissions:* Submit all electronic comments through the Federal eRulemaking portal: *http://www.regulations.gov* (follow instructions for submitting comments).

(2) *Mail:* Chief, Marine Mammal and Sea Turtle Conservation Division, Attn: List of Fisheries, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

Comments regarding the burden-hour estimates, or any other aspect of the collection of information requirements contained in this proposed rule, should be submitted in writing to Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or to David Rostker, OMB, by fax to 202–395–7285 or by e-mail to *David_Rostker@omb.eop.gov.*

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

See **SUPPLEMENTARY INFORMATION** for a listing of all Regional Offices.

FOR FURTHER INFORMATION CONTACT: Melissa Andersen, Office of Protected Resources, 301–713–2322; David Gouveia, Northeast Region, 978–281–9280; Laura Engleby, Southeast Region, 727–551–5791; Elizabeth Petras, Southwest Region, 562–980–3238; Brent Norberg, Northwest Region, 206–526–6733; Bridget Mansfield, Alaska Region, 907–586–7642; Lisa Van Atta, Pacific Islands Region, 808–944–2257. Individuals who use a telecommunications device for the hearing impaired may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Availability of Published Materials

Information regarding the LOF and the Marine Mammal Authorization Program, including registration procedures and forms, current and past LOFs, observer requirements, and marine mammal injury/mortality reporting forms and submittal

procedures, may be obtained at: *http://www.nmfs.noaa.gov/pr/interactions/lof/* or from any NMFS Regional Office at the addresses listed below:

NMFS, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930–2298, Attn: Marcia Hobbs;

NMFS, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, Attn: Laura Engleby;

NMFS, Southwest Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, Attn: Charles Villafana;

NMFS, Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115, Attn: Protected Resources Division;

NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9th Street, Juneau, AK 99802, Attn: Bridget Mansfield; or

NMFS, Pacific Islands Region, Protected Resources, 1601 Kapiolani Boulevard, Suite 1100, Honolulu, HI 96814–4700, Attn: Lisa Van Atta.

What is the List of Fisheries?

Section 118 of the MMPA requires NMFS to place all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals occurring in each fishery (16 U.S.C. 1387(c)(1)). The classification of a fishery on the LOF determines whether participants in that fishery may be required to comply with certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. NMFS must reexamine the LOF annually, considering new information in the Marine Mammal Stock Assessment Reports (SAR) and other relevant sources, and publish in the **Federal Register** any necessary changes to the LOF after notice and opportunity for public comment (16 U.S.C. 1387 (c)(1)(C)).

How does NMFS determine in which category a fishery is placed?

The definitions for the fishery classification criteria can be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2). The criteria are also summarized here.

Fishery Classification Criteria

The fishery classification criteria consist of a two-tiered, stock-specific approach that first addresses the total impact of all fisheries on each marine mammal stock, and then addresses the impact of individual fisheries on each stock. This approach is based on consideration of the rate, in numbers of animals per year, of incidental mortalities and serious injuries of marine mammals due to commercial fishing operations relative to the potential biological removal (PBR) level for each marine mammal stock. The MMPA (16 U.S.C. 1362(20)) defines the PBR level as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population. This definition can also be found in the implementing regulations for section 118 of the MMPA (50 CFR 229.2).

Tier 1: If the total annual mortality and serious injury of a marine mammal stock, across all fisheries, is less than or equal to 10 percent of the PBR level of the stock, all fisheries interacting with the stock would be placed in Category III (unless those fisheries interact with other stock(s) in which total annual mortality and serious injury is greater than 10 percent of PBR). Otherwise, these fisheries are subject to the next tier (Tier 2) of analysis to determine their classification.

Tier 2, Category I: Annual mortality and serious injury of a stock in a given fishery is greater than or equal to 50 percent of the PBR level (*i.e.,* frequent incidental mortality and serious injuries of marine mammals).

Tier 2, Category II: Annual mortality and serious injury of a stock in a given fishery is greater than 1 percent and less than 50 percent of the PBR level (*i.e.,* occasional incidental mortality and serious injuries of marine mammals).

Tier 2, Category III: Annual mortality and serious injury of a stock in a given fishery is less than or equal to 1 percent of the PBR level (*i.e.,* a remote likelihood or no known incidental mortality and serious injuries of marine mammals).

While Tier 1 considers the cumulative fishery mortality and serious injury for a particular stock, Tier 2 considers fishery-specific mortality and serious injury for a particular stock. Additional details regarding how the categories were determined are provided in the preamble to the proposed rule implementing section 118 of the MMPA (60 FR 45086, August 30, 1995).

Because fisheries are classified on a per-stock basis, a fishery may qualify as one Category for one marine mammal stock and another Category for a different marine mammal stock. A fishery is typically classified on the LOF at its highest level of classification (e.g., a fishery qualifying for Category III for one marine mammal stock and for Category II for another marine mammal stock will be listed under Category II).

Other Criteria That May Be Considered

In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, NMFS will determine whether the incidental serious injury or mortality is "frequent," "occasional," or "remote" by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area, or at the discretion of the Assistant Administrator for Fisheries (50 CFR 229.2). Further, eligible commercial fisheries not specifically identified on the LOF are deemed to be Category II fisheries until the next LOF is published (50 CFR 229.2).

How does NMFS determine which species or stocks are included as incidentally killed or injured in a fishery?

The LOF includes a list of marine mammal species or stocks incidentally killed or injured in each commercial fishery. To determine which species or stocks are included as incidentally killed or injured in a fishery, NMFS annually reviews the information presented in the current SARs. The SARs are based upon the best available scientific information and provide the most current and inclusive information on each stock's PBR level and level of interaction with commercial fishing operations. NMFS also reviews other sources of new information, including observer data, stranding data, and fisher self-reports.

In the absence of reliable information on the level of mortality or injury of a marine mammal stock, or insufficient observer data, NMFS will determine whether a species or stock should be added to, or deleted from, the list by considering other factors such as: changes in gear used, increases or decreases in fishing effort, increases or decreases in the level of observer coverage, and/or changes in fishery management that are expected to lead to decreases in interactions with a given marine mammal stock (such as a fishery management plan (FMP) or a take reduction plan (TRP)). NMFS will provide case-specific justification in the LOF for changes to the list of species or stocks incidentally killed or injured.

How does NMFS determine the levels of observer coverage in a fishery on the LOF?

Data obtained from observers and the level of observer coverage are important tools in estimating the level of marine mammal mortality and serious injury in commercial fishing operations. The best available information on the level of observer coverage, and the spatial and temporal distribution of observed marine mammal interactions, is presented in the SARs. Starting with the 2005 SARs, each SAR includes an appendix with detailed descriptions of each Category I and II fishery in the LOF, including observer coverage. The SARs generally do not provide detailed information on observer coverage in Category III fisheries because, under the MMPA, Category III fisheries are not required to accommodate observers aboard vessels due to the remote likelihood of mortality and serious injury of marine mammals. Information presented in the SARs' appendices includes: level of observer coverage, target species, levels of fishing effort, spatial and temporal distribution of fishing effort, characteristics of fishing gear and operations, management and regulations, and interactions with marine mammals. Copies of the SARs are available on the NMFS Office of Protected Resources Web site at: *http://www.nmfs.noaa.gov/pr/sars/.* Additional information on observer programs in commercial fisheries can be found on the NMFS National Observer Program's Web site: *http://www.st.nmfs.gov/st4/nop/.*

How do I find out if a specific fishery is in Category I, II, or III?

This proposed rule includes three tables that list all U.S. commercial fisheries by LOF Category. Table 1 lists all of the fisheries in the Pacific Ocean (including Alaska); Table 2 lists all of the fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean; and Table 3 lists all U.S.-authorized fisheries on the high seas. A fourth table, Table 4, lists all fisheries managed under applicable take reduction plans or teams.

Are high seas fisheries included on the LOF?

Beginning with the 2009 LOF, NMFS includes high seas fisheries in Table 3 of the LOF, along with the number of valid High Seas Fishing Compliance Act (HSFCA) permits in each fishery. As of 2004, NMFS issues HSFCA permits only for high seas fisheries analyzed in accordance with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA). The authorized high seas fisheries are broad in scope and encompass multiple specific fisheries identified by gear type. For the purposes of the LOF, the high seas fisheries are subdivided based on gear type (*e.g.,* trawl, longline, purse seine, gillnet, troll, etc.) to provide more detail on composition of effort within these fisheries. Many fisheries operate in both U.S. waters and on the high seas, creating some overlap between the fisheries listed in Tables 1 and 2 and those in Table 3. In these cases, the high seas component of the fishery is not considered a separate fishery, but an extension of a fishery operating within U.S. waters (listed in Table 1 or 2). NMFS designates those fisheries in Tables 1, 2, and 3 by a "*" after the fishery's name. The number of HSFCA permits listed in Table 3 for the high seas components of these fisheries operating in U.S. waters does not necessarily represent additional effort that is not accounted for in Tables 1 and 2. Many vessels/participants holding these permits also fish within U.S. waters and are included in the number of vessels and participants operating within those fisheries in Tables 1 and 2.

HSFCA permits are valid for five years, during which time FMPs can change. Therefore, some vessels/participants may possess valid HSFCA permits without the ability to fish under the permit because it was issued for a gear type that is no longer authorized under the most current FMP. For this reason, the number of HSFCA permits displayed in Table 3 is likely higher than the actual U.S. fishing effort on the high seas. For more information on how NMFS classifies high seas fisheries on the LOF, see the preamble text in the final 2009 LOF (73 FR 73032; December 1, 2008).

Where can I find specific information on fisheries listed on the LOF?

NMFS developed summary documents for each Category I and II fishery on the LOF. These summaries include the full history of each Category I and II fishery, including: When the fishery was added to the LOF, the basis for the fishery's initial classification, classification changes to the fishery, changes to the list of species or stocks incidentally killed or injured in the fishery, fishery gear and methods used, observer coverage levels, regulations managing the fishery, applicable take reduction teams or plans, if any. These summaries are updated after each final LOF. The summaries can be found under "How Do I Find Out if a Specific Fishery is in Category I, II, or III?" on the NMFS Office of Protected Resources Web site: *http://www.nmfs.noaa.gov/pr/interactions/lof/.*

Am I required to register under the MMPA?

Owners of vessels or gear engaging in a Category I or II fishery are required under the MMPA (16 U.S.C. 1387(c)(2)), as described in 50 CFR 229.4, to register with NMFS and obtain a marine mammal authorization to lawfully take non-endangered and non-threatened marine mammals incidental to commercial fishing. Owners of vessels or gear engaged in a Category III fishery are not required to register with NMFS or obtain a marine mammal authorization.

How do I register?

NMFS has integrated the MMPA registration process, the Marine Mammal Authorization Program (MMAP), with existing state and Federal fishery license, registration, or permit systems for Category I and II fisheries on the LOF. Participants in these fisheries are automatically registered under the MMAP and are not required to submit registration or renewal materials directly under the MMAP. In the Pacific Islands, Southwest, Northwest, and Alaska regions, NMFS will issue vessel or gear owners an authorization certificate; in the Northeast and Southeast Regions, NMFS will issue vessel or gear owners notification of registry and directions on obtaining an authorization certificate. The authorization certificate, or a copy, must be on board the vessel while it is operating in a Category I or II fishery, or for non-vessel fisheries, in the possession of the person in charge of the fishing operation (50 CFR 229.4(e)). Although efforts are made to limit the issuance of authorization certificates to only those vessel or gear owners that participate in Category I or II fisheries, not all state and Federal permit systems distinguish between fisheries as classified by the LOF. Therefore, some vessel or gear owners in Category III fisheries may receive authorization certificates even though they are not required for Category III fisheries. Individuals fishing in Category I and II fisheries for which no state or Federal permit is required must register with NMFS by contacting their appropriate Regional Office (*see* **ADDRESSES**).

How do I receive my authorization certificate and injury/mortality reporting forms?

All vessel or gear owners that participate in Pacific Islands, Southwest, Northwest, or Alaska regional fisheries will receive their

authorization certificates and/or injury/mortality reporting forms via U.S. mail, or with their State or Federal license at the time of renewal. Vessel or gear owners participating in the Northeast and Southeast Regional Integrated Registration Program will receive their authorization certificates and/or injury/mortality reporting forms as follows:

1. Northeast Region vessel or gear owners participating in Category I or II fisheries for which a state or Federal permit is required may receive their authorization certificate and/or injury/mortality reporting form by contacting the Northeast Regional Office at 978–281–9328 or by visiting the Northeast Regional Office Web site (*http://www.nero.noaa.gov/prot_res/mmap/certificate.html*) and following the instructions for printing the necessary documents.

2. Southeast Region vessel or gear owners participating in Category I or II fisheries for which a Federal permit is required, as well as fisheries permitted by the states of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas will receive notice of registry and may receive their authorization certificate and/or injury/mortality reporting form by contacting the Southeast Regional Office at 727–551–5758 or by visiting the Southeast Regional Office Web site (*http://sero.nmfs.noaa.gov/pr/pr.htm*) and following the instructions for printing the necessary documents.

How do I renew my registration under the MMPA?

The registrations of vessel or gear owners that participate in Pacific Islands, Southwest, or Alaska regional fisheries are automatically renewed and participants should receive an authorization certificate by January 1 of each new year. Vessel or gear owners in Northwest regional fisheries receive authorization with each renewed State fishing license, the timing of which varies based on target species. Vessel or gear owners who participate in these regions and have not received authorization certificates by January 1 or with renewed fishing licenses must contact the appropriate NMFS Regional Office (*see* **ADDRESSES**).

Vessel or gear owners participating in Southeast or Northeast regional fisheries may receive an authorization certificate by calling the relevant NMFS Regional Office or visiting the relevant NMFS Regional Office Web site (*see* How Do I Receive My Authorization Certificate and Injury/Mortality Reporting Forms?).

Am I required to submit reports when I injure or kill a marine mammal during the course of commercial fishing operations?

In accordance with the MMPA (16 U.S.C. 1387(e)) and 50 CFR 229.6, any vessel owner or operator, or gear owner or operator (in the case of non-vessel fisheries), participating in a fishery listed on the LOF must report to NMFS all incidental injuries and mortalities of marine mammals that occur during commercial fishing operations, regardless of the category in which the fishery is placed (I, II or III) within 48 hours of the end of the fishing trip. "Injury" is defined in 50 CFR 229.2 as a wound or other physical harm. In addition, any animal that ingests fishing gear or any animal that is released with fishing gear entangling, trailing, or perforating any part of the body is considered injured, regardless of the presence of any wound or other evidence of injury, and must be reported. Injury/mortality reporting forms and instructions for submitting forms to NMFS can be downloaded from: *http://www.nmfs.noaa.gov/pr/pdfs/interactions/mmap_reporting_form.pdf.* Reporting requirements and procedures can be found in 50 CFR 229.6.

Am I required to take an observer aboard my vessel?

Individuals participating in a Category I or II fishery are required to accommodate an observer aboard their vessel(s) upon request from NMFS. MMPA section 118 states that an observer will not be placed on a vessel if the facilities for quartering an observer or performing observer functions are inadequate or unsafe, thereby exempting vessels too small to accommodate an observer from this requirement. However, observer requirements will not be exempted, regardless of vessel size, for U.S. Atlantic Ocean, Caribbean, and Gulf of Mexico large pelagic longline vessels operating in special areas designated by the Pelagic Longline Take Reduction Plan implementing regulations (50 CFR 229.36(d)). Observer requirements can be found in 50 CFR 229.7.

Am I required to comply with any take reduction plan regulations?

Table 4 in this proposed rule provides a list of fisheries affected by take reduction teams and plans. Take reduction plan regulations can be found at 50 CFR 229.30 through 229.36.

Sources of Information Reviewed for the Proposed 2011 LOF

NMFS reviewed the marine mammal incidental serious injury and mortality information presented in the SARs for all observed fisheries to determine whether changes in fishery classification were warranted. The SARs are based on the best scientific information available at the time of preparation, including the level of serious injury and mortality of marine mammals that occurs incidental to commercial fisheries and the PBR levels of marine mammal stocks. The information contained in the SARs is reviewed by regional Scientific Review Groups (SRGs) representing Alaska, the Pacific (including Hawaii), and the U.S. Atlantic, Gulf of Mexico, and Caribbean. The SRGs were created by the MMPA to review the science that informs the SARs, and to advise NMFS on marine mammal population status, trends, and stock structure, uncertainties in the science, research needs, and other issues.

NMFS also reviewed other sources of new information, including marine mammal stranding data, observer program data, fisher self-reports, FMPs, and ESA documents.

The proposed LOF for 2011 was based, among other things, on information provided in the NEPA and ESA documents analyzing authorized high seas fisheries, the final SARs for 1996 (63 FR 60, January 2, 1998), 2001 (67 FR 10671, March 8, 2002), 2002 (68 FR 17920, April 14, 2003), 2003 (69 FR 54262, September 8, 2004), 2004 (70 FR 35397, June 20, 2005), 2005 (71 FR 26340, May 4, 2006), 2006 (72 FR 12774, March 19, 2007), 2007 (73 FR 21111, April 18, 2008), 2008 (74 FR 19530, April 29, 2009), 2009 (75 FR 12498, March 16, 2010), and the draft SARs for 2010 (which will be available for review and comment later during the public comment period for this proposed 2011 LOF). The SARs are available at: *http://www.nmfs.noaa.gov/pr/sars/.*

Fishery Descriptions

Beginning with the final 2008 LOF (72 FR 66048, November 27, 2007), NMFS describes each Category I and II fishery on the LOF. Below, NMFS describes the fisheries classified as Category I or II on the 2011 LOF that were not classified as such on a previous LOF (and therefore have not yet been defined on the LOF). Additional details for Category I and II fisheries operating in U.S. waters are included in the SARs, FMPs, and TRPs, through state agencies, or through the fishery summaries available at: *http://www.nmfs.noaa.gov/pr/*

interactions/lof/. Additional details for Category I and II fisheries operating on the high seas are included in various FMPs, NEPA, or ESA documents.

WA Coastal Dungeness Crab Pot/Trap Fishery

Washington's coastal commercial crab grounds extend from the Columbia River estuary to Cape Flattery, including Grays Harbor and Willapa Bay. The coastal crab fishery is a limited entry fishery with 228 license holders, of which approximately 200 are active annually. Each coastal crab license is assigned a maximum pot limit of either 300 or 500 pots. Pots are fished individually and must be marked with an identification number. Surface marker buoys must also be tagged for identification. The fishery opens on or about December 1 when the majority of male crabs have recovered from the fall molt and shell condition has hardened. The season runs through September 15. In 1997 Congress granted Washington, Oregon and California jurisdiction to manage Dungeness crab fisheries outside of state waters to the 200 mile limit of the U.S. EEZ. Under Washington State regulations, pots can be no larger than 13 cubic feet and must be equipped with specified escape rings for undersize crab and a biodegradable release mechanism to allow crabs to escape from pots that become separated from the buoy or have otherwise become lost. There is a summer FMP, which is part of the larger Washington Coastal Dungeness Crab FMP, in place to protect crabs that enter the molt prior to the September 15 season ending date. This summer FMP allows for in-season closures of the fishery if the percentage of early molting crab reaches a certain level.

Southeastern U.S. Atlantic, Gulf of Mexico Shrimp Trawl Fishery

The "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery (proposed to be elevated to Category II in this proposed rule) is a pelagic or bottom trawl fishery operating virtually year-round in the Atlantic Ocean from North Carolina through Florida, and in the Gulf of Mexico from Florida through Texas. Effort occurs in estuarine, near shore coastal waters, and along the continental slope of the Atlantic and estuarine, near shore coastal, and offshore continental shelf and slope waters in the Gulf of Mexico. The fishery targets brown, pink and white shrimp within estuaries, and near coastal and offshore regions; and targets Royal Red shrimp along the deep continental slope. Commercial shrimp vessels most commonly employ a double-rig otter trawl, which normally includes a lazy line attached to each bag's codend. The lazy line floats free during active trawling, and as the net is hauled back, it is retrieved with a boat- or grappling-hook to assist in guiding and emptying the trawl nets. Shrimp trawl soak time is about three hours; the fishery typically operates from sunset to sunrise when shrimp are most likely to swim higher in the water column. Although shrimp trawlers are required under ESA regulations to use turtle excluder devices to reduce sea turtle bycatch (50 CFR 223.206), the fishery currently does not use any method or gear modification to deter, or reduce bycatch of, marine mammals. 2009 data indicate there are approximately 4,950 shrimp trawl vessels operating in the Southeast Atlantic and Gulf of Mexico with an estimated 76,884 vessel trips.

Summary of Changes to the LOF for 2011

The following summarizes changes to the LOF for 2011 in fishery classification, fisheries listed in the LOF, the estimated number of vessels/participants in a particular fishery, and the species/stocks that are incidentally killed or injured in a particular fishery. The classifications and definitions of U.S. commercial fisheries for 2011 are identical to those provided in the LOF for 2010 with the proposed changes discussed below. State and regional abbreviations used in the following paragraphs include: AK (Alaska), CA (California), FL (Florida), GMX (Gulf of Mexico), HI (Hawaii), MA (Massachusetts), MD (Maryland), ME (Maine), NC (North Carolina), NJ (New Jersey), NY (New York), OR (Oregon), SC (South Carolina), VA (Virginia), WA (Washington), and WNA (Western North Atlantic).

Commercial Fisheries in the Pacific Ocean

Fishery Classification

WA Coastal Dungeness Crab Pot/Trap Fishery

NMFS proposes to elevate the "WA coastal Dungeness crab pot/trap" fishery (proposed to be split from the Category III "WA Dungeness crab pot" fishery and renamed the "WA coastal Dungeness crab pot/trap" fishery in this proposed rule) from Category III to Category II based on the serious injury of a humpback whale (CA/OR/WA stock) entangled in Dungeness crab pot/trap gear in WA state waters in 2008 (draft 2010 SAR). The estimated annual mortality and serious injury of humpback whales (CA/OR/WA stock) due to interactions with all fisheries (Tier 1 analysis) is approximately 3.6 animals/year, which exceeds 10 percent of the stock's PBR level of 11.3 (draft 2010 SAR). The single serious injury in the "WA coastal Dungeness crab pot/trap" fishery in 2008 (Tier 2 analysis) results in an average mortality and serious injury rate of 0.2 humpback whales per year (when averaged over the latest five year data period), or 1.7 percent of PBR, meeting the criteria for a Category II classification. There have been no reported humpback whale entanglements in crab fisheries in the inland waters of WA. There is no observer coverage in this fishery.

CA/OR Thresher Shark/Swordfish Drift Gillnet Fishery

NMFS proposes to reclassify the "CA/OR thresher shark/swordfish drift gillnet" fishery from Category I to Category III. NMFS observed this fishery from 2004 through 2008 at coverage levels ranging from 13.5 percent to 20.9 percent. There have been no observed serious injury or mortality of any marine mammal stock for which the average total fishery mortality and serious injury exceeds 10 percent of the stock's PBR (draft 2010 SARs). This fishery was classified as Category I based on the level of serious injury and mortality of short-finned pilot whales (CA/OR/WA stock) in this fishery exceeding the stock's PBR level. However, a short-finned pilot whale has not been observed killed or injured in this fishery in the most recent five years of data (2004–2008), indicating that the serious injury or mortality of short-finned pilot whales is now zero (draft 2010 SAR). NMFS will continue to observe this fishery under authority of the Highly Migratory Species FMP (50 CFR 660.719) and monitor levels of marine mammal mortality and serious injury in this fishery. Further, all Pacific Offshore Cetacean Take Reduction Plan measures (50 CFR 229.31) continue to apply to this fishery.

CA Anchovy, Mackerel, Sardine Purse Seine Fishery

NMFS proposes to reclassify the "CA anchovy, mackerel, sardine purse seine" fishery from Category II to Category III. This fishery was classified as Category II based on the serious injury or mortality of bottlenose dolphins (CA/OR/WA offshore stock) reported in logbooks from the early 1990s. Since that time there have been no reports of interactions with bottlenose dolphins, and there is no other available information to suggest that this fishery is causing serious injury or mortality of bottlenose dolphins. The serious injury or mortality caused by this fishery to

other marine mammal stocks is less than 1 percent of each stock's PBR (draft 2010 SAR), thus NMFS is proposing that this fishery be placed in Category III. Observer coverage in this fishery has been limited, with observer coverage in 2008 at less than 1 percent.

CA Squid Purse Seine Fishery

NMFS proposes to reclassify the "CA squid purse seine" fishery from Category II to Category III. This fishery was classified as Category II due to the serious injury or mortality of long-beaked common dolphins (CA stock). The draft 2010 SAR for long-beaked common dolphin (CA stock) indicates that the average total fishery mortality and serious injury for this stock is below 10 percent of its PBR (Tier 1 analysis) and is considered insignificant and approaching a zero mortality and serious injury rate, meeting the criteria for a Category III classification. Long-beaked common dolphins and short-beaked common dolphins are the only marine mammals that have been observed seriously injured or killed in this fishery. Observer coverage is this fishery is low, at less than 2 percent from 2004–2007.

CA Tuna Purse Seine Fishery

NMFS proposes to reclassify the "CA tuna purse seine" fishery from Category II to Category III. The "CA tuna purse seine" fishery was classified as Category II by analogy to the Category II "CA squid purse seine" fishery. Since NMFS is proposing to reclassify the "CA squid purse seine" fishery to Category III in this proposed rule, NMFS also proposes to reclassify the "CA tuna purse seine" fishery. Observer coverage in this fishery is low, at less than 2 percent from 2004–2007.

Addition of Fisheries

NMFS proposes to add the "HI kaka line" fishery to the LOF as Category III. This fishery is managed by the State of HI, and includes fishing effort with gear consisting of a mainline less than one nautical mile in length to which multiple branchlines with baited hooks are attached. The mainline is set horizontally. Target species include various nearshore and pelagic species. While this fishery has gear that may be analogous to the Category II "HI shortline" fishery, the gear is fixed on or near the bottom, or in shallow midwater. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, and there is a remote likelihood of marine mammal interactions, warranting a Category III classification. This fishery is not currently observed.

NMFS proposes to add the "HI vertical longline" fishery to the LOF as Category III. This fishery is managed by the State of HI. The fishery is prosecuted using a vertical mainline less than one nautical mile in length, suspended from the surface with a float, from which leaders with baited hooks are attached, and ending with a terminal weight. Target species include various pelagic fish species. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, and there is a remote likelihood of marine mammal interactions, warranting a Category III classification. In 2009, there were 18 state licensees landing catches in this fishery. This fishery is not currently observed.

NMFS proposes to add the "HI crab net" fishery to the LOF as Category III. This fishery is managed by the State of HI. This fishery is prosecuted using ring nets set manually from the shoreline, mainly in estuarine areas, to catch various crab species. The nets are used singly, and are not connected with a ground line. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, and there is a remote likelihood of marine mammal interactions, warranting a Category III classification. In 2009, there were 8 state licensees landing catches in this fishery. This fishery is not currently observed.

NMFS proposes to add the "HI hukilau net" fishery to the LOF as Category III. This is a beach seine fishery managed by the State of HI. Target species include inshore and reef fish. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, and there is a remote likelihood of marine mammal interactions, warranting a Category III classification. In 2009, there were 36 state licensees landing catches in this fishery. This fishery is not currently observed.

NMFS proposes to add the "HI lobster tangle net" fishery to the LOF as Category III. This fishery is managed by the State of HI. This fishery is prosecuted using large mesh net to entangle spiny and slipper lobsters. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, and there is a remote likelihood of marine mammal interactions, warranting a Category III classification. In 2009, there were 2 state licensees landing catches in this fishery. This fishery is not currently observed.

NMFS proposes to add the "HI bullpen trap" fishery to the LOF as Category III. This fishery is managed by the State of HI, and includes fishing with a net(s) fixed in position to form a large stationary enclosure. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, and there is a remote likelihood of marine mammal interactions, warranting a Category III classification. In 2009, there were 4 state licensees landing catches in this fishery. This fishery is not currently observed.

NMFS proposes to add the "WA Puget Sound Dungeness crab pot/trap" fishery to the LOF as Category III (proposed to be split from the Category III "WA Dungeness crab pot" fishery in this proposed rule, with the coastal fishery proposed for Category II). This fishery is managed by the State of WA, and includes effort in inland marine waters south of the U.S./Canada border and east to Cape Flattery. There are no known incidental mortalities or serious injuries of marine mammals in this fishery, warranting a Category III classification. The Puget Sound crab fishery is a limited entry fishery with 249 permits. In 2009, the 249 permits were owned by 150 individuals. This fishery is not currently observed.

Fishery Name and Organizational Changes and Clarifications

NMFS proposes to change the name of the Category III "HI squiding, spear" fishery to the "HI spearfishing" fishery to reflect the multiple target species of spearfishing.

NMFS proposes to change the name of the Category III "HI Main Hawaiian Islands, Northwestern Hawaiian Islands deep sea bottomfish" fishery to the "HI Main Hawaiian Islands deep-sea bottomfish handline" fishery. The fishery in the Northwest Hawaiian Islands was closed at the end of 2009 and the addition of "handline" to the name clarifies the gear type used in the fishery.

NMFS proposes to move the Category III "HI Kona crab loop net" fishery from the "Purse Seine, Beach Seine, Round Haul, and Throw Net Fisheries" heading in Table 1 to the "Pot, Ring Net, and Trap Fisheries" heading to more accurately describe the gear type used in this fishery. This fishery uses fine-stranded netting stretched over a round or square metal frame to form a flat net. Multiple nets are attached to a mainline, set on sandy bottoms like a string of traps, and used to entangle crabs in the mesh.

NMFS proposes to add "Tangle Net" to the name of the Category III "Purse Seine, Beach Seine, Round Haul and Throw Net Fisheries" heading in Table 1, to include the "HI lobster tangle net" fishery (proposed to be added to the LOF as Category III in this proposed rule).

NMFS proposes to split the Category III "WA Dungeness crab pot" fishery into two separate fisheries: the Category II "WA coastal Dungeness crab pot/trap" fishery (*see* above under "Fishery Classifications" for more details) and the Category III "WA Puget Sound Dungeness crab pot/trap" fishery (*see* above under "Fishery Additions" for more details).

NMFS proposes to add a superscript "2" after the Category II "CA yellowtail, barracuda, and white seabass drift gillnet (mesh ≥3.5 in and <14 in)" fishery in Table 1 to denote that this fishery is classified by analogy to the Category II "CA halibut/white seabass and other species set gillnet (≥3.5 in mesh)" fishery. The "CA halibut/white seabass and other species set gillnet (≤ 3.5 in mesh)" fishery is classified as Category II based on the entanglement and serious injury of a humpback whale in 2008. The "CA yellowtail, barracuda, and white seabass drift gillnet (mesh ≥3.5 in and <14 in)" fishery operates in similar areas and similar seasons with the "CA halibut/white seabass and other species set gillnet (≥3.5 in mesh)" fishery, thus it is reasonable that either fishery may cause serious injury or mortality of humpback whales.

Number of Vessels/Persons

NMFS proposes to update the estimated number of persons/vessels in the "CA/OR thresher shark/swordfish drift gillnet" fishery (proposed to be reclassified as Category III in this proposed rule) from 85 to 45.

NMFS proposes to update the estimated number of persons/vessels in the Category II "CA halibut/white seabass and other species set gillnet" fishery from 58 to 50.

NMFS proposes to update the estimated number of persons/vessels in the Category II "CA yellowtail, barracuda, and white seabass drift gillnet" fishery from 24 to 30.

NMFS proposes to update the estimated number of persons/vessels in the "CA squid purse seine" fishery (proposed to be reclassified as Category III in this proposed rule) from 64 to 65.

NMFS proposes to update the estimated number of persons/vessels in the Category II "CA spot prawn pot" fishery from 29 to 27.

NMFS proposes to update the estimated number of persons/vessels in the Category II "CA Dungeness crab pot" fishery from 625 to 534.

NMFS proposes to update the estimated number of persons/vessels in the Category II "CA/OR/WA sablefish pot" fishery from 155 to 309.

NMFS proposes to update the estimated number of persons/vessels in the Category III "CA anchovy, mackerel, sardine purse seine" fishery from 63 to 65.

NMFS proposes to update the estimated number of persons/vessels in the following HI fisheries to reflect the number of licensees reporting landings in 2009. Category I: "HI deep-set (tuna target) longline/set line" from 129 to 127. Category II: "HI shortline" from 11 to 21. Category III: "HI inshore gillnet" from 5 to 39; "HI Kona crab loop net" from 42 to 41; "HI opelu/akule net" from 12 to 20; "HI inshore purse seine" from 23 to 8; "HI throw net, cast net" from 14 to 28; "HI trolling, rod and reel" from 1,321 to 2,210; "HI crab trap" from 22 to 9; "HI fish trap" from 19 to 11; "HI lobster trap" from 0 to 3; "HI shrimp trap" from 5 to 1; "HI aku boat, pole, and line" from 4 to 6; "HI inshore handline" from 307 to 460; "HI tuna handline" from 298 to 531; "HI handpick" from 37 to 53; "HI lobster diving" from 19 to 36; "HI spearfishing" (proposed name change in this proposed rule) from 91 to 163; and "HI Main Hawaiian Islands deep-sea bottomfish handline" (proposed name change in this proposed rule) from 300 to 580.

List of Species or Stocks Incidentally Killed or Injured

NMFS proposes to add humpback whale (CA/OR/WA stock) to the list of species/stocks incidentally killed or injured in the "WA coastal Dungeness crab pot/trap" fishery (proposed to be elevated to Category II in this proposed rule). NMFS further proposes to include a superscript "1" following the humpback whale (CA/OR/WA stock) in Table 1, indicating that this stock is driving the classification of the fishery. A humpback whale (CA/OR/WA stock) was entangled and seriously injured in Dungeness crab pot/trap gear in WA state waters in 2008 (draft 2010 SAR). The single serious injury results in an average mortality and serious injury rate of 0.2 humpback whales per year (when averaged over the latest 5 year data period), or 1.7 percent of the stock's PBR of 11.3 (draft 2010 SAR).

NMFS proposes to remove short finned pilot whales (CA/OR/WA stock) from the list of species/stocks incidentally killed or injured in the "CA/OR thresher shark/swordfish drift gillnet" fishery (proposed to be reclassified as Category II in this proposed rule). This fishery has been observed at approximately 20 percent for the period 2004–2008 (approximately 13.5 percent in 2008) and during that period there were no observed interactions with short-finned pilot whales.

NMFS proposes to remove bottlenose dolphin (CA/OR/WA offshore stock) from the list of species/stocks incidentally killed or injured in the "CA anchovy, mackerel, sardine purse seine" fishery (proposed to be reclassified as Category III in this proposed rule). The information on the serious injury or mortality of bottlenose dolphins in this fishery was based upon logbooks from the early 1990s. Since that time there have been no reports of bottlenose dolphin interactions in this fishery (draft 2010 SAR) and there is no other available information to suggest that this fishery is causing serious injury or mortality of bottlenose dolphins. Observer coverage in this fishery has been limited, with less than 1 percent observer coverage in 2008.

NMFS proposes to remove Risso's dolphin (CA/OR/WA stock) from the list of species/stocks incidentally killed or injured in the Category III "CA pelagic longline" fishery. There have been no interactions in the latest 5 years of data (draft 2010 SAR). The last observed entanglement of a marine mammal in this fishery occurred in 2003. Observer coverage in this fishery ranged from 12 to 50 percent from 2003–2005, and was 100 percent from 2006–2008.

NMFS proposes to add humpback whale (CA/OR/WA stock) to the list of species/stocks incidentally killed or injured in the Category II "CA halibut/white seabass and other species set gillnet (>3.5 in mesh)" fishery. In the 2010 proposed LOF (74 FR 27739; June 11, 2009), NMFS requested public comment and/or information on two reports to the Large Whale Disentanglement Program of a humpback whale entangled in, and seriously injured by, pink monofilament gillnet gear (May 10, 2007, offshore of Dana Point, CA, and seen later the same day off Palos Verdes, CA). NMFS has since received additional information regarding this entangled humpback whale. Based upon the area of the entanglement and the type of gear on the whale, NMFS considers it most likely that the gear involved in this entanglement was from the "CA halibut/white seabass and other species set gillnet (>3.5 in mesh)" fishery. One serious injury or mortality of a humpback whale (CA/OR/WA stock) would result in an annual mortality and serious injury rate of 0.2 animals per year (when averaged over five years) or 1.7 percent of the stock's PBR of 11.3 (draft 2010 SAR), which is consistent with a Category II classification. NMFS also proposes adding a superscript "1" after humpback whale (CA/OR/WA stock), indicating that this stock is driving the Category II classification of

the fishery. NMFS is requesting comments on this proposed change to the list of species/stocks incidentally killed or injured in this fishery. This proposed action does not change the Category II classification of the fishery. Observer coverage in this fishery was approximately 1 percent in 2006 and 17 percent in 2007. There was no observer coverage in 2004, 2005, or 2008.

NMFS proposes to remove the superscript "1" after CA sea lions (U.S. stock) and harbor seals (CA stock) in the list of species/stocks incidentally killed or injured in the Category II "CA halibut/white seabass and other species set gillnet (≤3.5 in mesh)" fishery. These stocks are not driving the Category II classification of this fishery. There have been observed interactions with these stocks in this fishery in recent years; however, the average total fishery mortality and serious injury is less than 10 percent of the respective PBR for both stocks (Tier 1 analysis) (draft 2010 SAR). There was no observer coverage in this fishery in 2008.

NMFS proposes to remove the superscript "2" after the Category II "CA Dungeness crab pot" fishery in Table 1 (indicating the fishery is classified as Category II based on analogy to other Category II crab pot fisheries), and add a superscript "1" after humpback whale (CA/OR/WA stock) in the list of species/stocks incidentally killed or injured in this fishery (indicating that serious injury or mortality of this stock in this fishery is driving the Category II classification of this fishery). In 2008, NMFS received two reports of humpback whales entangled in, and seriously injured by, pot/trap fishing gear off the coast of California. NMFS determined that one humpback whale was entangled and seriously injured in "CA Dungeness crab pot" fishery gear off of Moss Landing. One serious injury or mortality of a humpback whale (CA/OR/WA stock) results in an annual mortality and serious injury rate of 0.2 animals per year (when averaged over five years) or 1.7 percent of the stock's PBR of 11.3 (draft 2010 SAR), which is consistent with a Category II classification. Therefore, this fishery should be classified based upon the level of serious injury or mortality of humpback whales (CA/OR/WA) rather than by analogy. The second humpback whale was reported entangled on August 5, 2008, in unidentified pot/trap gear in the Santa Barbara Channel. NMFS is requesting information from the public on which fishery may have been involved in this entanglement. This fishery is not currently observed.

NMFS proposes to add false killer whale (Palmyra Atoll stock) to the list of marine mammal stocks incidentally injured or killed in the Category I "HI deep-set (tuna target) longline/set line" fishery. One false killer whale was seriously injured in this fishery inside the Palmyra Atoll EEZ in 2007, resulting in an average mortality and serious injury rate of 0.3 whales per year for the period 2004–2008, or 4.7 percent of the stock's PBR of 6.4 (draft 2010 SAR). Observer coverage for this fishery from 2004–2008 ranged from 20 to 28 percent (draft 2010 SAR).

NMFS proposes to add false killer whale (HI Insular stock) to the list of marine mammal stocks incidentally injured or killed in the Category I "HI deep-set (tuna target) longline/set line" fishery. One false killer whale was non-seriously injured within the range of the HI Insular stock from 2004–2008. Based on the pro-rating method used by the NMFS Southwest and Pacific Islands Fisheries Science Centers to estimate takes using the proportions of observed interactions that resulted in death, serious injury, or non-serious injury, this non-serious injury results in an average mortality and serious injury rate of 0.6 whales per year for the period 2004–2008, or 98.3 percent of the stock's PBR of 0.61 (*see* the draft 2010 SAR for additional information on the pro-rating method used by the NMFS Southwest and Pacific Islands Fisheries Science Centers). NMFS further proposes to include a superscript "1" following the false killer whale (HI Insular stock) in Table 1, indicating that this stock is driving the classification of the fishery. Observer coverage for this fishery from 2004–2008 ranged from 20 to 28 percent (draft 2010 SAR).

NMFS proposes to change the stock of bottlenose dolphin injured or killed in the Category I "HI deep-set (tuna target) longline/set line" fishery from "HI stock" to "HI Pelagic stock." The bottlenose dolphin stock structure was revised for the draft 2010 SAR, and the stock that interacts with the deep-set longline fishery is now the HI Pelagic stock (draft 2010 SAR). One bottlenose dolphin was seriously injured in this fishery in 2006 inside the Hawaiian Islands EEZ, resulting in an average mortality and serious injury rate of 0.2 bottlenose dolphins per year, or 1.1 percent of the stock's PBR of 18 (draft 2010 SAR). Observer coverage for this fishery from 2004–2008 ranged from 20 to 28 percent (draft 2010 SAR).

NMFS proposes to change the stock of pantropical spotted dolphin injured or killed in the Category I "HI deep-set (tuna target) longline/set line" fishery from "stock unknown" to "HI stock." One pantropical spotted dolphin was killed in this fishery on the high seas in 2008, resulting in an average mortality and serious injury rate of 0.6 pantropical spotted dolphins per year for the period 2004–2008 (draft 2010 SAR). The draft 2010 SAR clarifies that the HI stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters; however, following the NMFS Guidelines for Assessing Marine Mammal Stocks (NMFS 2005), the PBR is calculated only for the portion of the stock occurring within the Hawaiian Islands EEZ. Therefore, the serious injury of this animal cannot be compared to the PBR of this stock. Observer coverage for this fishery during this time period ranged from 20 to 28 percent (draft 2010 SAR).

NMFS proposes to remove the superscript "1" after humpback whale (Central North Pacific stock) in the Category II "HI shallow-set (swordfish target) longline/set line" fishery because serious injury or mortality of this stock is no longer driving the Category II classification of this fishery. There was one serious injury and one non-serious injury of humpback whales observed in this fishery from 2004–2008, with 100 percent observer coverage. The one serious injury results in an average serious injury and mortality rate of 0.2 humpback whales per year, or 0.33 percent of the stock's PBR of 61.2 (draft 2010 SAR). This is less than one percent of the stock's PBR: Therefore, serious injury and mortality of this stock is no longer driving the Category II classification of this fishery.

NMFS proposes to change the stock of bottlenose dolphin injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery from "stock unknown" to "HI Pelagic stock." The bottlenose dolphin stock structure has been revised for the draft 2010 SAR, and the stock that interacts with the shallow-set longline fishery is now the HI Pelagic stock (draft 2010 SAR). The draft 2010 SAR also clarifies that this stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters.

NMFS proposes to add a superscript "1" after bottlenose dolphin (HI Pelagic stock) in the Category II "HI shallow-set (swordfish target) longline/set line" fishery, indicating that serious injury or mortality of this stock is driving the Category II classification of this fishery. From 2004–2008, three serious injuries of this stock were documented outside of U.S. EEZs with 100 percent observer coverage, resulting in an average serious injury and mortality rate of 0.6 bottlenose dolphins per year. During the same time period, one bottlenose

dolphin was observed seriously injured within the Hawaiian Islands EEZ with 100 percent observer coverage, resulting in an average serious injury and mortality rate of 0.2 bottlenose dolphins per year, or 1.1 percent of the stock's PBR of 18 (draft 2010 SAR). Additionally, there are documented mortalities and serious injuries of other marine mammal stocks by the "HI shallow-set (swordfish target) longline/set line" fishery on the high seas, as described below. While there are no PBRs calculated for these stocks outside of the Hawaiian Islands EEZ, NMFS cannot rule out the potential for incidental take to exceed 1 percent of any stock's PBR. NMFS proposes to retain this fishery in Category II based on the occasional documented mortalities and serious injuries of these other marine mammal stocks.

NMFS proposes to add striped dolphin (HI stock) to the list of marine mammal stocks incidentally injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery. One striped dolphin (HI stock) was seriously injured in this fishery in 2008 in waters outside of U.S. EEZs with 100 percent observer coverage, resulting in an average mortality and serious injury rate of 0.2 striped dolphins per year outside U.S. EEZs, for the period 2004–2008 (draft 2010 SAR). The draft 2010 SAR clarifies that the HI stock of striped dolphins includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters; however, following the NMFS Guidelines for Assessing Marine Mammal Stocks (NMFS 2005), the PBR is calculated only for the portion of the stock occurring within the Hawaiian Islands EEZ. Therefore, the serious injury of this animal cannot be compared to the PBR of this stock.

NMFS proposes to add false killer whale (HI Pelagic stock) to the list of marine mammal stocks incidentally injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery. NMFS observed one non-serious injury of a false killer whale (HI Pelagic stock) in this fishery in 2008 within the range of the HI Pelagic stock inside the Hawaiian Islands EEZ, with 100 percent observer coverage (draft 2010 SAR).

NMFS proposes to add *Kogia* spp. whale (HI stock) to the list of marine mammal stocks incidentally injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery. NMFS observed one non-serious injury of a *Kogia* spp. whale (HI stock) (i.e., a pygmy or dwarf sperm whale) in this fishery in 2008 in waters outside of U.S. EEZs, with 100 percent observer coverage (draft 2010 SAR). The draft 2010 SAR clarifies that the HI stocks of both pygmy and dwarf sperm whales include animals found both within the Hawaiian Islands EEZ and in adjacent international waters; however, following the NMFS Guidelines for Assessing Marine Mammal Stocks (NMFS 2005), PBRs are calculated only for the portion of the stocks occurring within the Hawaiian Islands EEZ.

NMFS proposes to change the stock of Bryde's whale injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery from "stock unknown" to "HI stock." NMFS observed one non-serious injury of a Bryde's whale in this fishery in 2005 outside of U.S. EEZs, with 100 percent observer coverage. The draft 2010 SAR clarifies that this stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters; however, following the NMFS Guidelines for Assessing Marine Mammal Stocks (NMFS 2005), PBR is calculated only for the portion of the stock occurring within the Hawaiian Islands EEZ.

NMFS proposes to change the stock of Risso's dolphin injured or killed in the Category II "HI shallow-set (swordfish target) longline/set line" fishery from "stock unknown" to "HI stock." Eight serious injuries and two mortalities of Risso's dolphins were observed in this fishery from 2005–2008 outside of U.S. EEZs, with 100 percent observer coverage, resulting in an average serious injury and mortality rate of 2.0 Risso's dolphins per year outside the U.S. EEZ, for the period 2004–2008. The draft 2010 SAR clarifies that this stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters; however, following the NMFS Guidelines for Assessing Marine Mammal Stocks (NMFS 2005), the PBR is calculated only for the portion of the stock occurring within the Hawaiian Islands EEZ. Therefore, the serious injuries and mortalities of these animals cannot be compared to the PBR of this stock.

NMFS proposes to remove sperm whale (stock unknown) from the list of species or stocks incidentally killed or injured in the Category II "HI shallow-set (swordfish target) longline/set line" fishery. There have been no documented takes of sperm whales in this fishery in the latest 5 years of data, with 100 percent observer coverage (draft 2010 SAR).

NMFS proposes to change the name of the stock of false killer whales listed as being incidentally injured or killed in the Category II "American Samoa longline" fishery from "stock unknown" to "American Samoa." This stock is newly defined in the draft 2010 SAR. Two false killer whales were killed or seriously injured by the fishery in 2008, resulting in an average mortality and serious injury rate of 7.8 whales per year for the period 2006–2008, with approximately 8 percent observer coverage (draft 2010 SAR). No abundance estimates are available for this stock; therefore, a PBR level cannot be calculated and the serious injuries or mortalities of these animals cannot be compared against the PBR of this stock. (draft 2010 SAR).

NMFS proposes to add rough-toothed dolphin (American Samoa stock) to the list of species or stocks incidentally killed or injured in the Category II "American Samoa longline" fishery. This stock is newly defined in the draft 2010 SAR. One rough-toothed dolphin was seriously injured by the fishery in 2008, resulting in an average mortality and serious injury rate of 3.6 dolphins per year for the period 2006–2008, with approximately 8 percent observer coverage (draft 2010 SAR). No abundance estimates are available for this stock; therefore, a PBR level cannot be calculated and the serious injury of this animal cannot be compared to the PBR of this stock (draft 2010 SAR).

Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean

Fishery Classification

Southeastern U.S. Atlantic, Gulf of Mexico Shrimp Trawl Fishery

NMFS proposes to elevate the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery from Category III to Category II based on interactions reported through observer reports, stranding data, and fisheries research data (2009 SAR), with multiple strategic marine mammal stocks (bottlenose dolphin, SC coastal; bottlenose dolphin, GA coastal; bottlenose dolphin, Northern Gulf of Mexico coastal (Eastern, Northern, and Western); and bottlenose dolphin, Gulf of Mexico bay, sound and estuarine) and non-strategic marine mammal stocks (bottlenose dolphin, Northern Gulf of Mexico continental shelf; and spotted dolphin, Northern Gulf of Mexico). The PBR levels are known only for two of these stocks, the SC coastal and GA coastal stocks of bottlenose dolphins. The PBR levels are unknown or undetermined for the remaining stocks because of outdated population estimates (*e.g.*, estimates are over 8 years old) and lack of abundance and mortality data necessary to calculate a PBR level. For this reason, the annual serious injury and mortality rate as it

compares to each stock's PBR cannot be calculated for most of these stocks.

As stated in the preamble of this proposed rule, in the absence of reliable information, NMFS determines whether a Category II classification is warranted for a given fishery (*i.e.*, the fishery has occasional incidental mortality and serious injury of marine mammals) by other factors, such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species or distribution of marine mammals in the area, or at the discretion of the Assistant Administrator (see 50 CFR 229.2). Due to the lack of PBR data and low observer coverage, NMFS conducted a qualitative analysis to determine the appropriate classification for the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery. NMFS reviewed the best scientific data available, including known and observed serious injuries and mortalities of bottlenose and other dolphin species obtained during extremely low observer coverage (less than 1 percent). NMFS considered the low level of observer coverage; number and type of documented interactions with trawl gear; levels of fishing effort; type of fishing gear used; lack of deterrence gear or methods; fishing process including soak time; and spatial and temporal co-occurrence of the shrimp trawl fishery and strategic marine mammal stocks. Based on this information, summarized in the following paragraph, NMFS proposes classifying this fishery in Category II.

This fishery was observed between 1992 and 2006 under a voluntary program, which became mandatory in 2007. Observer coverage has been less than 1 percent for all observed years. Even with low coverage, NMFS observed 12 dolphin takes (of which 11 animals were seriously injured or killed) in this fishery since 1993. Eleven of these takes occurred since 2002. Because observer data sheets often listed "dolphin" and did not specify the species, NMFS can only confirm that 4 of the 12 takes were bottlenose dolphins. Based on the location of the 8 observed takes that were not identified to species, the takes may be either bottlenose dolphins or Atlantic spotted dolphins. However, bottlenose dolphins are ubiquitous, and are the most commonly found cetacean throughout Southeastern U.S. coastal waters, bays, sounds and estuaries.

In addition to observer reports of marine mammals seriously injured or killed in this fishery, the final 2009 SARs note that "occasional interactions with bottlenose dolphins have been observed [in the shrimp trawl fishery], and there is infrequent evidence of interactions from stranded animals." The lack of stranding evidence is not unusual. Some fisheries (*i.e.* gillnet and trap/pot) leave distinctive wounds on stranded animals, which are often found still entangled with tell-tale gear. However, it is thought that serious injuries or mortalities to marine mammals from trawl fisheries are less obvious on gross inspection: Cause of death is more likely to be by blunt trauma from trawl doors, or drowning by enclosure in, rather than by entanglement with the net.

Marine Mammal Authorization Program records indicate one dolphin take in shrimp trawl gear in South Carolina in 2002. Thirteen additional dolphin takes, ten since 2002, have been documented by NMFS in Southeast U.S. research trawl operations, and/or relocation trawls conducted in conjunction with dredging and other marine construction activities. Twelve of the thirteen takes resulted in serious injury or mortality, and one out of the thirteen was an Atlantic spotted dolphin, the remaining animals were bottlenose dolphins. There are no substantive differences between commercial fishing and relocation trawls, although relocation trawls are not equipped with turtle excluder devices (TEDs), and soak time is considerably less (usually about 30 minutes) than commercial shrimp trawls.

Removal of Fisheries

NMFS proposes to remove the separate listing for the "Mid-Atlantic flynet" fishery (Category II) from the LOF and incorporate the participants of this fishery into the "Mid-Atlantic bottom trawl" fishery (Category II). For additional information, see the "Fishery Name and Organizational Changes and Clarifications" section below.

Fishery Name and Organizational Changes and Clarifications

NMFS proposes to incorporate the Category II "Mid-Atlantic flynet" fishery into the Category II "Mid-Atlantic bottom trawl" fishery. Bottom otter trawl nets include a variety of net types, including flynets; therefore, the term "flynet" does not refer to a unique gear type and is better suited to be listed within the "Mid-Atlantic bottom trawl" fishery definition. Additionally, flynets are not used to target *Illex* squid offshore. NMFS therefore proposes replacing the current definition for the "Mid-Atlantic bottom trawl" fishery presented in the proposed 2009 LOF (73 FR 33776, June 13, 2008) with the following fishery definition: "The Mid-Atlantic bottom trawl fishery uses bottom trawl gear to target species including, but not limited to, bluefish, croaker, monkfish, summer flounder (fluke), winter flounder, silver hake (whiting), spiny dogfish, smooth dogfish, scup, and black sea bass. The fishery occurs year-round from Cape Cod, MA, to Cape Hatteras, NC, in waters west of 70° W. long. and north of a line extending due east from the NC/SC border. In areas where 70° W. long. is east of the EEZ, the EEZ serves as the eastern boundary. The gear is managed by several state and Federal FMPs. The Mid-Atlantic bottom trawl fishery also includes gear types such as flynets utilized in the mid-Atlantic region. The Mid-Atlantic bottom trawls using flynets target species through nearshore and offshore components that operate along the east coast of the mid-Atlantic United States. Flynets typically range from 80–120 ft (24–36.6 m) in headrope length, with wing mesh sizes of 16–64 in (41–163 cm), following a slow 3:1 taper to smaller mesh sizes in the body, extension, and codend sections of the net. The nearshore fishery operates from October to April inside of 30 fathoms (180 ft; 55 m) from NJ to NC. This nearshore fishery targets Atlantic croaker, weakfish, butterfish, harvestfish, bluefish, menhaden, striped bass, kingfish species, and other finfish species. Flynet fishing is no longer permitted in Federal waters south of Cape Hatteras in order to protect weakfish stocks. The offshore component operates from November to April outside of 30 fathoms (180 ft; 55 m) from the Hudson Canyon off NY, south to Hatteras Canyon off NC. These deeper water fisheries target bluefish, Atlantic mackerel, *Loligo* squid, black sea bass, and scup."

NMFS proposes to remove the American eel from species targeted in Category II "Atlantic mixed species trap/pot" fishery as initially listed in the 2008 Proposed LOF (72 FR 35402; June 28, 2007). NMFS believes that this target species is adequately represented by the Category III "U.S. Mid-Atlantic eel trap/pot" fishery as this fishery takes place in mostly fresh, brackish, and coastal areas from ME to FL and inside the fishery demarcation line that serves as the western boundary for the "Atlantic mixed species trap/pot" fishery. This change would require a new fishery definition for the Category II "Atlantic mixed species trap/pot" fishery. The new definition would be as follows: "The Category II 'Atlantic mixed species trap/pot' fishery's targets species

including, but not limited to: Hagfish, shrimp, conch/whelk, red crab, Jonah crab, rock crab, black sea bass, scup, tautog, cod, haddock, Pollock, redfish (ocean perch), white hake, spot, skate, catfish, and stone crab. The fishery includes all trap/pot operations from the U.S.-Canada border south through the waters east of the fishery management demarcation line between the Atlantic Ocean and the Gulf of Mexico (50 CFR 600.105), but does not include the following Category I, II, and III trap/pot fisheries: Northeast/Mid-Atlantic American lobster trap/pot; Atlantic blue crab trap/pot; FL spiny lobster trap/pot; Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot; U.S. Mid-Atlantic eel trap/pot; and the Southeastern U.S. Atlantic, Gulf of Mexico golden crab fisheries. The fishery is managed under various Interstate FMPs."

NMFS proposes to clarify the target species defined for the Category II "Northeast drift gillnet" fishery. The fishery definition provided in the 2008 Proposed LOF (72 FR 35401; June 28, 2007), included language excluding large pelagic species from the species targeted. However, this fishery should include any residual large pelagic drift gillnet effort. The language provided in the 2001 Proposed LOF (66 FR 6553; January 21, 2001) added language to include target species other than large pelagics in the fishery definition; however, the change did not remove large pelagics from the list of targeted species. Therefore, NMFS recommends changing the definition for the "Northeast drift gillnet" fishery to: "* * * targets species including shad, herring, mackerel, and menhaden and any residual large pelagic driftnet effort in New England. This fishery uses drift gillnet gear, which is gillnet gear not anchored to the bottom and is free-floating on both ends or free-flowing at one end and attached to the vessel at the other end. It occurs at any depth in the water column from the U.S.-Canada border to Long Island, NY, at 72°30′ W. long. south to 36°33.03 N. lat. and east to the eastern edge of the EEZ."

NMFS proposes to update the bodies governing the Category II "Northeast mid-water trawl" fishery. In the 2008 Proposed LOF (72 FR 35402; June 28, 2007) NMFS stated that "[t]he fishery is managed jointly by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission (ASMFC) as a migratory stock complex." Atlantic herring are managed by the New England Fishery Management Council and through the ASFMC and mackerel is managed under the Mid-Atlantic Fisheries Management Council. Therefore, NMFS proposes to edit this statement to read "[t]he Northeast bottom trawl fishery is managed jointly by the New England Fishery Management Council, Mid-Atlantic Fishery Management Council, and the ASMFC."

NMFS proposes to update the FMPs applicable to the Category II "Northeast bottom trawl" and the Category I "Northeast sink gillnet" fisheries. The current definition for the "Northeast bottom trawl" fishery states "[t]he Category II "Northeast bottom trawl" fishery uses bottom trawl gear to target species included in the Northeast Multispecies FMP, Summer Flounder FMP, and Scup and Seabass FMP, including, but not limited to: Atlantic cod, haddock, pollock, yellowtail flounder, winter flounder, witch flounder, American plaice, Atlantic halibut, redfish, windowpane flounder, summer flounder, spiny dogfish, monkfish, silver hake, red hake, white hake, ocean pout, and skate spp * * *. The fishery is primarily managed by Total Allowable Catch (TAC) limits, individual trip limits (quotas), effort caps (limited number of days at sea per vessel), time and area closures, and gear restrictions." NMFS recommends changing this definition to "[t]he Category II "Northeast bottom trawl" fishery uses bottom trawl gear to target species including, but not limited to: Atlantic cod, haddock, pollock, yellowtail flounder, winter flounder, witch flounder, American plaice, Atlantic halibut, redfish, windowpane flounder, summer flounder, spiny dogfish, monkfish, silver hake, red hake, white hake, ocean pout, and skate spp * * *. The fishery is primarily managed by TACs, individual trip limits (quotas), effort caps (limited number of days at sea per vessel), time and area closures, and gear restrictions under several interstate and federal FMPs." Additionally, the Northeast sink gillnet fishery definition currently lists the fishery as being " * * * managed by the Northeast Multispecies (Groundfish) FMP." NMFS proposes to change this sentence to " * * * managed by several interstate and federal FMPs."

NMFS proposes to update spatial boundaries for the Category II "Northeast bottom trawl" and "Mid-Atlantic bottom trawl" fisheries. Currently the "Northeast bottom trawl" fishery's spatial boundary is defined as "from the U.S.- Canada border through waters east of 72°30′ W. long." and the "Mid-Atlantic bottom trawl" fishery's spatial boundary is defined as "Cape Cod, MA, to Cape Hatteras, NC, in waters west of 72°30′ W. long. and north of a line extending due east from the NC/SC border." However, marine mammal bycatch estimates conducted by Northeast Fisheries Science Center (NEFSC) for these fisheries are made using 70° W. long. as the dividing boundary as a result of reviewing trip locations from vessel trip reports. Therefore, to maintain consistency with the SAR process for how fisheries are defined, NMFS proposes to change the spatial boundary for the "Northeast bottom trawl" fishery to "from the U.S.-Canada border through waters east of 70° W. long." and the "Mid-Atlantic bottom trawl" fishery's spatial boundary to "Cape Cod, MA, to Cape Hatteras, NC, in waters west of 70° W. long. and north of a line extending due east from the NC/SC border. In areas where 70° W. long. is east of the EEZ, the EEZ serves as the eastern boundary."

Number of Vessels/Persons

NMFS proposes to update the estimated vessels/persons for several mid-Atlantic and New England fisheries listed under Table 2 to reflect the potential state and Federal permit effort. Past numbers used in the LOF for many of the Northeast and Mid-Atlantic fisheries have represented only active Federal permits and did not incorporate state permit information. NMFS acknowledges that these estimates are inflations of actual effort and that in some cases actual effort may be decreasing; however, the estimates represent the potential effort for each fishery, given the multiple gear types several state permits may allow for. Changes made to New England and Mid-Atlantic fishery participants listed in Table 2 of the LOF will not affect observer coverage or bycatch estimates, as observer coverage and bycatch estimates are based on vessel trip reports and landings data. Table 2 only serves to provide a description of the fishery's potential effort (state and federal) in the LOF. If NMFS is able to extract more accurate information on the gear types used by state permit holders in the future, the numbers will be corrected to reflect this change. Federal permit information was collected through fishing vessel trip reports and by querying Federal permit databases. State permit information was collected through the MMAP registration process. NMFS proposes to update the estimated number of persons/vessels in the following New England and Mid-Atlantic and fisheries:

Category I: Mid-Atlantic gillnet from >670 to 5,495; Northeast sink gillnet from 341 to 7,712; and Northeast/Mid-Atlantic American lobster trap/pot from 13,000 to 12,489.

Category II: Chesapeake Bay inshore gillnet from 45 to 1,167; NC inshore gillnet from 94 to 2,250; Northeast anchored float gillnet from 133 to 662; Northeast drift gillnet from unknown to 608; Mid-Atlantic mid-water trawl from 620 to 546; Mid-Atlantic bottom trawl from >1,000 to 1,182 (also includes participants from the "Mid-Atlantic flynet" fishery, proposed to be merged with the "Mid-Atlantic bottom trawl" fishery in this proposed rule); Northeast mid-water trawl (including pair trawl) from 17 to 953; Northeast bottom trawl from 1,052 to 1,635; Atlantic blue crab trap/pot from >16,000 to 6,479; Atlantic mixed species trap/pot from unknown to 1,912; Mid-Atlantic menhaden purse seine fishery from 22 to 54; Mid-Atlantic haul/beach seine from 25 to 666; N.C. long haul seine from 33 to 372; and Virginia pound net from 41 to 52.

Category III: U.S. Mid-Atlantic offshore surf clam and quahog dredge from 100 to unknown; Gulf of Maine urchin dive, hand/mechanical collection from <50 to unknown; Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge from 233 to 258; Gulf of Maine mussel dredge from >50 to unknown; Gulf of Maine, U.S. Mid-Atlantic tuna/shark/swordfish hook & line/harpoon from 26,223 to >403; Northeast, Mid-Atlantic bottom longline/hook & line from 46 to 1,183; U.S. Mid-Atlantic mixed species stop seine/weir/pound net from 751 to unknown; Gulf of Maine herring and Atlantic mackerel stop seine/weir from 50 to unknown; Gulf of Maine Atlantic herring purse seine from 30 to >7; Gulf of Maine menhaden purse seine from 50 to >2; and Atlantic shellfish bottom trawl from 972 to >67.

NMFS proposes to update the estimated vessels/persons in the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery (proposed to be elevated to Category II in this proposed rule) from >18,000 to 4,950.

List of Species or Stocks Incidentally Killed or Injured

NMFS proposes to add bottlenose dolphin (WNA offshore stock) to the list of species/stocks incidentally killed or injured in the Category II "Mid-Atlantic bottom trawl" fishery. One freshly dead bottlenose dolphin was observed taken in October 2009, during a trip targeting *Loligo* squid, and three freshly dead bottlenose dolphins were observed taken in August 2009 during a trip targeting *Illex* squid. The estimated annual serious injury and mortality rate based on these four mortalities is 0.8 animals/year, or 0.14 percent of the stock's PBR level of 566 (2008 SAR, the most recent SAR to report a PBR for this stock). These mortalities were observed and reported in the August 2009 and October 2009 Northeast Fisheries Observer Program Incidental Take Reports (*http://www.nefsc.noaa.gov/fsb/*). Observer coverage in these fisheries varies from year-to-year. Observer coverage in the *Illex* fishery from 1996–2007 ranged from 0–14 percent (with higher percentages in more recent years); observer coverage in the *Loligo* fishery from 1996–2007 ranged from 0–5 percent (with higher percentages in more recent years) (final 2009 SARs).

NMFS proposes to add the Atlantic spotted dolphin (Northern GMX stock) to the list of species/stocks incidentally killed or injured in the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery (proposed to be elevated to Category II in this proposed rule). An Atlantic spotted dolphin (Northern GMX stock) was killed in 2006 in Southeast U.S. research trawl operations and/or relocation trawls conducted in conjunction with dredging and other marine construction activities. There are no substantive differences between commercial fishing and relocation trawls, although relocation trawls are not equipped with turtle excluder devices (TEDs), and soak time is considerably less (usually approximately 30 minutes) than commercial shrimp trawls. As noted above in NMFS' proposal to elevate the "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery" to Category II, most of the observer reports from this fishery list only "dolphin" as the marine mammal killed or injured, and NMFS was able to conclusively identify only four of the twelve takes in this fishery since 2002 as bottlenose dolphins. Based on the location of the observed takes for the 8 unidentified dolphins, the remainder of the observed takes can either be bottlenose dolphin or Atlantic spotted dolphin (final 2009 SAR). Therefore, given the low observer coverage in this fishery, the location of the observed takes for the unidentified dolphin species in this fishery, and the observed mortality of an Atlantic spotted dolphin in research trawl operations that operate in a similar area and manner to commercial shrimp trawl operations, it is reasonable that takes of Atlantic spotted dolphins are also occurring in the commercial fishery.

NMFS proposes to add the bottlenose dolphin (Northern NC estuarine system stock) to the list of species/stocks incidentally killed or injured in the Category III "U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe mullet stop net)" fishery. Stranding records reported that one bottlenose dolphin was removed dead from a NC pound net in August 2004 (2009 SAR). There is no observer coverage in this fishery.

NMFS proposes to update all of the stock names for bottlenose dolphins injured or killed incidental to Category I, II, and III fisheries in the Atlantic, based on the revised stock structure presented in the final 2008 and 2009 SARs. NMFS proposes to replace all references to "bottlenose dolphin, WNA coastal" with the following stocks for each of the following fisheries:

1. "Mid-Atlantic gillnet" fishery (Category I): Bottlenose dolphin, Northern Migratory coastal; bottlenose dolphin, Southern Migratory coastal; bottlenose dolphin, Northern NC estuarine system; bottlenose dolphin, Southern NC estuarine system. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after each of these stocks because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

2. "NC inshore gillnet" fishery (Category II): Bottlenose dolphin, Northern NC estuarine system; bottlenose dolphin, Southern NC estuarine system. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after each of these stocks because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

3. "Southeast Atlantic gillnet" fishery (Category II): Bottlenose dolphin, Southern Migratory coastal; bottlenose dolphin, SC coastal; bottlenose dolphin, GA coastal; bottlenose dolphin, Northern FL coastal; bottlenose dolphin, Central FL coastal. NMFS proposes to retain the superscript "2" after the fishery in Table 2 (indicating that the fishery is listed on the LOF by analogy to other Category I or II fisheries).

4. "Southeastern U.S. Atlantic shark gillnet" fishery (Category II): Bottlenose dolphin, Central FL coastal. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after this new stock because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

5. "Atlantic blue crab trap/pot" fishery (Category II): Bottlenose dolphin, Northern NC estuarine system; bottlenose dolphin, Southern NC estuarine system; bottlenose dolphin,

Charleston estuarine system; bottlenose dolphin, Northern GA/Southern SC estuarine system; bottlenose dolphin, Southern GA estuarine system; bottlenose dolphin, Jacksonville estuarine system; bottlenose dolphin, Indian River Lagoon estuarine system; bottlenose dolphin, Northern Migratory coastal; bottlenose dolphin, Southern Migratory coastal; bottlenose dolphin, Northern FL coastal; bottlenose dolphin, Central FL coastal; bottlenose dolphin, SC coastal; bottlenose dolphin, GA coastal. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after each of these stocks because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

6. "Mid-Atlantic menhaden purse seine" fishery (Category II): Bottlenose dolphin, Northern Migratory coastal; bottlenose dolphin, Southern Migratory coastal. NMFS proposes to retain the superscript "2"after the fishery in Table 2 (indicating that the fishery is listed on the LOF by analogy to other Category I or II fisheries).

7. "Mid-Atlantic haul/beach seine" fishery (Category II): Bottlenose dolphin, Northern NC estuarine system; bottlenose dolphin, Northern Migratory coastal; bottlenose dolphin, Southern Migratory coastal. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after each of these stocks because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

8. "NC long haul seine" fishery (Category II): Bottlenose dolphin, Northern NC estuarine system. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after this new stock because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

9. "NC roe mullet stop net" fishery (Category II): Bottlenose dolphin, Southern NC estuarine system. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after this new stock because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

10. "VA pound net" fishery (Category II): Bottlenose dolphin, Northern Migratory coastal; bottlenose dolphin, Southern Migratory coastal. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to retain the superscript "1" after each of these stocks because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

11. "Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl" fishery (proposed to be elevated to Category II in this proposed rule): Bottlenose dolphin, SC coastal; bottlenose dolphin, GA coastal. The 2010 LOF includes a superscript "1" following bottlenose dolphin (WNA coastal stock) in Table 2 (indicating it is driving the classification of this fishery). NMFS proposes to include a superscript "1" after each of these stocks in Table 2 (indicating it is driving the classification of this fishery) because NMFS cannot yet differentiate to which stock a killed/injured animal belongs.

12. "FL spiny lobster trap/pot" fishery (Category III): Bottlenose dolphin, Biscayne Bay estuarine; bottlenose dolphin, FL Bay estuarine.

13. "Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot" fishery (Category III): Bottlenose dolphin, Biscayne Bay estuarine.

14. "Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel" fishery (Category III): Bottlenose dolphin, Southern NC estuarine system; bottlenose dolphin, Indian River Lagoon estuarine system; bottlenose dolphin, Biscayne Bay estuarine.

Commercial Fisheries on the High Seas

Fishery Classifications

NMFS proposes to reclassify the High Seas "Pacific highly migratory species drift gillnet" fishery from Category I to Category III. This fishery is an extension of the "CA/OR thresher shark/swordfish drift gillnet" fishery operating within the U.S. EEZ, and is not a separate fishery. NMFS proposes to reclassify the component of the fishery operating in U.S. waters to Category III in this proposed rule (see above under "Commercial Fisheries in the Pacific Ocean" for details); therefore, NMFS also proposes to reclassify the high seas component of the fishery because it remains the same on either side of the EEZ boundary.

Number of Vessels/Persons

NMFS proposes to update the estimated number of HSFCA permits in the High Seas Atlantic highly migratory species fishery for the following gear types: Longline from 72 to 77; handline/pole and line from 1 to 2; and trawl from 2 to 3.

NMFS proposes to update the estimated number of HSFCA permits in the High Seas Pacific highly migratory species fishery for the following gear types: Drift gillnet from 4 to 3; longline from 62 to 75; handline/pole and line from 22 to 25; trawl from 3 to 2; and troll from 249 to 271.

NMFS proposes to update the estimated number of HSFCA permits in the High Seas South Pacific Albacore Troll fishery for the following gear types: Troll from 53 to 59.

NMFS proposes to update the estimated number of HSFCA permits in the High Seas South Pacific Tuna fishery for the following gear types: Longline from 3 to 8; and purse seine from 36 to 35.

NMFS proposes to update the estimated number of HSFCA permits in the High Seas Western Pacific Pelagic fishery for the following gear types: Deep-set longline from 129 to 127; handline/pole and line from 9 to 10; trawl from 4 to 3; and troll from 44 to 40.

List of Species or Stocks Incidentally Killed or Injured

NMFS proposes to change the stock of false killer whales injured or killed in the Category I "Western Pacific Pelagic (Deep-set component)" fishery from "stock unknown" to "HI Pelagic stock." This fishery is an extension of the Category I "HI deep-set (tuna target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, six serious injuries and one non-serious injury of false killer whales were observed in this fishery outside of U.S. EEZs from 2004–2008. The draft 2010 SAR clarifies that this stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters. Observer coverage for this fishery from 2004–2008 ranged from 20 to 28 percent (draft 2010 SAR).

NMFS proposes to change the stock of pantropical spotted dolphin injured or killed in the Category I "Western Pacific Pelagic (Deep-set component)" fishery from "stock unknown" to "HI stock." This fishery is an extension of the Category I "HI deep-set (tuna target) longline/set line" fishery operating within the U.S. EEZ, and is not a

separate fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, one pantropical spotted dolphin was observed incidentally killed in this fishery on the high seas in 2008 (draft 2010 SAR). The draft 2010 SAR clarifies that the HI stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters. Observer coverage for this fishery from 2004–2008 ranged from 20 to 28 percent (draft 2010 SAR).

NMFS proposes to change the stock of bottlenose dolphin injured or killed in the Category I "Western Pacific Pelagic (Deep-set component)" fishery from "HI" to "HI Pelagic stock." This fishery is an extension of the Category I "HI deep-set (tuna target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, the bottlenose dolphin stock structure has been revised for the draft 2010 SAR, and the stock that interacts with the deep-set longline fishery is now the HI Pelagic stock (draft 2010 SAR). The draft 2010 SAR clarifies that the HI Pelagic stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters.

NMFS proposes to add striped dolphin (HI stock) and *Kogia* spp. whale (HI stock) to the list of marine mammal stocks incidentally injured or killed in the Category II "Western Pacific Pelagic (Shallow-set component)" fishery. This fishery is an extension of the Category II "HI shallow-set (swordfish target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, one striped dolphin was observed seriously injured in this fishery in 2008 in waters outside of the U.S. EEZ and one *Kogia* spp. whale (i.e., a pygmy or dwarf sperm whale) was observed non-seriously injured in this fishery in 2008, in waters outside of U.S. EEZs (draft 2010 SAR). The draft 2010 SAR clarifies that the HI stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters. Observer coverage in this fishery is 100 percent (draft 2010 SAR).

NMFS proposes to change the stock of bottlenose dolphin injured or killed in the Category II "Western Pacific Pelagic (Shallow-set component)" fishery from "stock unknown" to "HI Pelagic stock." This fishery is an extension of the Category II "HI shallow-set (swordfish target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. Since this fishery remains the same and many marine mammal species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, the bottlenose dolphin stock structure as revised for the draft 2010 SAR and the stock that interacts with the deep-set longline fishery is now the HI Pelagic stock (draft 2010 SAR). The draft 2010 SAR also clarifies that the HI Pelagic stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters.

NMFS proposes to change the stock of Bryde's whale injured or killed in the Category II "Western Pacific Pelagic (Shallow-set component)" fishery from "stock unknown" to "HI stock." This fishery is an extension of the Category II "HI shallow-set (swordfish target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, one non-serious injury was observed in this fishery in 2005 outside of U.S. EEZs. The draft 2010 SAR clarifies that this stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters. Observer coverage in this fishery is 100 percent (draft 2010 SAR).

NMFS proposes to change the stock of Risso's dolphin injured or killed in the Category II "Western Pacific Pelagic (Shallow-set component)" fishery from "stock unknown" to "HI stock." This fishery is an extension of the Category II "HI shallow-set (swordfish target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. Since this fishery remains the same and many marine mammals species are found on either side of the EEZ boundary, the list of species/stocks incidentally killed or injured in the high seas component of the fishery is identical to the list of species/stocks killed or injured in the component operating in U.S. waters. Also, eight serious injuries and two mortalities of Risso's dolphins were observed in this fishery from 2005–2008 outside of the U.S. EEZ. The draft 2010 SAR clarifies that this stock includes animals found both within the Hawaiian Islands EEZ and in adjacent international waters. Observer coverage in this fishery is 100 percent (draft 2010 SAR).

NMFS proposes to remove sperm whale (stock unknown) from the list of marine mammal stocks incidentally injured or killed in the Category II High Seas "Western Pacific Pelagic (Shallow-set component)" fishery. This fishery is an extension of the Category II "HI shallow-set (swordfish target) longline/set line" fishery operating within the U.S. EEZ, and is not a separate fishery. There have been no documented takes of sperm whales in this fishery in the last 5 years, under 100 percent observer coverage (draft 2010 SAR).

List of Fisheries

The following tables set forth the proposed list of U.S. commercial fisheries according to their classification under section 118 of the MMPA. In Tables 1 and 2, the estimated number of vessels/participants in fisheries operating within U.S. waters is expressed in terms of the number of active participants in the fishery, when possible. If this information is not available, the estimated number of vessels or persons licensed for a particular fishery is provided. If no recent information is available on the number of participants, vessels, or persons licensed in a fishery, then the number from the most recent LOF is used for the estimated number of vessels/persons in the fishery. NMFS acknowledges that, in some cases, these estimations may be inflations of actual effort; however, they represent the potential effort for each fishery, given the multiple gear types several state permits may allow for. Changes made to New England and Mid-Atlantic fishery participants listed in Table 2 in this proposed rule will not affect observer coverage or bycatch estimates as observer coverage and bycatch estimates are based on vessel trip reports and landings data. Table 1 and 2 serve to

provide a description of the fishery's potential effort (state and Federal) in the LOF. If NMFS is able to extract more accurate information on the gear types used by state permit holders in the future, the numbers will be corrected to reflect this change. For additional information on fishing effort in fisheries found on Table 1 or 2, NMFS refers the reader to contact the relevant regional office (contact information included above in **SUPPLEMENTARY INFORMATION**).

For high seas fisheries, Table 3 lists the number of currently valid HSFCA permits held. Although this likely overestimates the number of active participants in many of these fisheries, the number of valid HSFCA permits is the most reliable data at this time.

Tables 1, 2, and 3 also list the marine mammal species/stocks incidentally killed or injured in each fishery based on observer data, logbook data, stranding reports, disentanglement network data, and MMAP reports. This list includes all species or stocks known to be injured or killed in a given fishery, but also includes species or stocks for which there are anecdotal records of an injury or mortality. Additionally, species identified by logbook entries may not be verified. In Tables 1 and 2, NMFS has designated those stocks driving a fishery's classification (i.e., the fishery is classified based on serious injuries and mortalities of a marine mammal stock that are greater than 50 percent [Category I], or greater than 1 percent and less than 50 percent [Category II], of a stock's PBR) by a "[1]"after the stock's name.

In Tables 1 and 2, there are several fisheries classified in Category II that have no recent documented injuries or mortalities of marine mammals, or fisheries that did not result in a serious injury or mortality rate greater than 1 percent of a stock's PBR level. NMFS has classified these fisheries by analogy to other gear types that are known to cause mortality or serious injury of marine mammals, as discussed in the final LOF for 1996 (60 FR 67063, December 28, 1995), and according to factors listed in the definition of a "Category II fishery" in 50 CFR 229.2. NMFS has designated those fisheries listed by analogy in Tables 1 and 2 by a "[2]" after the fishery's name.

There are several fisheries in Tables 1, 2, and 3 in which a portion of the fishing vessels cross the EEZ boundary, and therefore operate both within U.S. waters and on the high seas. NMFS has designated those fisheries in each Table by a "*" after the fishery's name.

Table 1 lists commercial fisheries in the Pacific Ocean (including Alaska); Table 2 lists commercial fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean; Table 3 lists commercial fisheries on the High Seas; and Table 4 lists fisheries affected by Take Reduction Plans or Teams.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
CATEGORY I		
LONGLINE/SET LINE FISHERIES:		
HI deep-set (tuna target) longline/set line *	127	Blainville's beaked whale, HI. Bottlenose dolphin, HI Pelagic. False killer whale, HI Insular.[1] False killer whale, HI Pelagic.[1] False killer whale, Palmyra Atoll. Humpback whale, Central North Pacific. Pantropical spotted dolphin, HI. Risso's dolphin, HI. Short-finned pilot whale, HI. Striped dolphin, HI.
CATEGORY II		
GILLNET FISHERIES:		
CA halibut/white seabass and other species set gillnet (>3.5 in mesh)	50	California sea lion, U.S. Harbor seal, CA. Humpback whale, CA/OR/WA.[1] Long-beaked common dolphin, CA. Northern elephant seal, CA breeding. Sea otter, CA. Short-beaked common dolphin, CA/OR/WA.
CA yellowtail, barracuda, and white seabass drift gillnet (mesh size ≥3.5 in and <14 in) [2].	30	California sea lion, U.S. Long-beaked common dolphin, CA. Short-beaked common dolphin, CA/OR/WA.
AK Bristol Bay salmon drift gillnet [2]	1,862	Beluga whale, Bristol Bay. Gray whale, Eastern North Pacific. Harbor seal, Bering Sea. Northern fur seal, Eastern Pacific. Pacific white-sided dolphin, North Pacific. Spotted seal, AK. Steller sea lion, Western U.S.
AK Bristol Bay salmon set gillnet [2]	983	Beluga whale, Bristol Bay. Gray whale, Eastern North Pacific. Harbor seal, Bering Sea.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
		Northern fur seal, Eastern Pacific.
		Spotted seal, AK.
AK Cook Inlet salmon drift gillnet	571	Beluga whale, Cook Inlet.
		Dall's porpoise, AK.
		Harbor porpoise, GOA.[1]
		Harbor seal, GOA.
		Steller sea lion, Western U.S.
AK Kodiak salmon set gillnet	188	Harbor porpoise, GOA.[1]
		Harbor seal, GOA.
		Sea otter, Southwest AK.
		Steller sea lion, Western U.S.
AK Peninsula/Aleutian Islands salmon drift gillnet[2]	162	Dall's porpoise, AK.
		Harbor porpoise, GOA.
		Harbor seal, GOA.
		Northern fur seal, Eastern Pacific.
AK Peninsula/Aleutian Islands salmon set gillnet[2]	115	Harbor porpoise, Bering Sea.
		Steller sea lion, Western U.S.
AK Prince William Sound salmon drift gillnet	537	Dall's porpoise, AK.
		Harbor porpoise, GOA.[1]
		Harbor seal, GOA.
		Northern fur seal, Eastern Pacific.
		Pacific white-sided dolphin, North Pacific.
		Sea otter, South Central AK.
		Steller sea lion, Western U.S.[1]
AK Southeast salmon drift gillnet	476	Dall's porpoise, AK.
		Harbor porpoise, Southeast AK.
		Harbor seal, Southeast AK.
		Humpback whale, Central North Pacific.[1]
		Pacific white-sided dolphin, North Pacific.
		Steller sea lion, Eastern U.S.
AK Yakutat salmon set gillnet[2]	166	Gray whale, Eastern North Pacific.
		Harbor seal, Southeast AK.
		Humpback whale, Central North Pacific (Southeast AK).
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of U.S.-Canada border and eastward of the Bonilla-Tatoosh line-Treaty Indian fishing is excluded).	210	Dall's porpoise, CA/OR/WA.
		Harbor porpoise, inland WA.[1]
		Harbor seal, WA inland.
PURSE SEINE FISHERIES:		
AK Cook Inlet salmon purse seine	82	Humpback whale, Central North Pacific.[1]
AK Kodiak salmon purse seine	370	Humpback whale, Central North Pacific.[1]
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands flatfish trawl	34	Bearded seal, AK.
		Harbor porpoise, Bering Sea.
		Harbor seal, Bering Sea.
		Killer whale, AK resident.[1]
		Northern fur seal, Eastern Pacific.
		Spotted seal, AK.
		Steller sea lion, Western U.S.[1]
		Walrus, AK.
AK Bering Sea, Aleutian Islands pollock trawl	95	Dall's porpoise, AK.
		Harbor seal, AK.
		Humpback whale, Central North Pacific.
		Humpback whale, Western North Pacific.
		Killer whale, Eastern North Pacific, GOA, Aleutian Islands, and Bering Sea transient.[1]
		Minke whale, AK.
		Ribbon seal, AK.
		Spotted seal, AK.
		Steller sea lion, Western U.S.[1]
POT, RING NET, AND TRAP FISHERIES:		

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
AK Bering Sea sablefish pot	6	Humpback whale, Central North Pacific.[1] Humpback whale, Western North Pacific.[1]
CA spot prawn pot	27	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA.[1]
CA Dungeness crab pot	534	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA.[1]
OR Dungeness crab pot	433	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA.[1]
WA/OR/CA sablefish pot	309	Humpback whale, CA/OR/WA.[1]
WA coastal Dungeness crab pot/trap	228	Gray whale, Eastern North Pacific. Humpback whale, CA/OR/WA.[1]
LONGLINE/SET LINE FISHERIES:		
HI shallow-set (swordfish target) longline/set line *	28	Bottlenose dolphin, HI Pelagic.[1] Bryde's whale, HI. False killer whale, HI Pelagic. Humpback whale, Central North Pacific. Kogia sp. whale (Pygmy or dwarf sperm whale), HI. Risso's dolphin, HI. Striped dolphin, HI.
American Samoa longline [2]	60	False killer whale, American Samoa. Rough-toothed dolphin, American Samoa.
HI shortline [2]	21	None documented.
AK Bering Sea, Aleutian Islands Pacific cod longline	54	Killer whale, AK resident.[1] Ribbon seal, AK. Steller sea lion, Western U.S.
CATEGORY III		
GILLNET FISHERIES:		
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet	824	Harbor porpoise, Bering Sea.
AK miscellaneous finfish set gillnet	3	Steller sea lion, Western U.S.
AK Prince William Sound salmon set gillnet	30	Harbor seal, GOA. Steller sea lion, Western U.S.
AK roe herring and food/bait herring gillnet	986	None documented.
CA set gillnet (mesh size <3.5 in)	304	None documented.
CA/OR thresher shark/swordfish drift gillnet (≥14 in mesh) *	45	California sea lion, U.S. Long-beaked common dolphin, CA. Northern elephant seal, CA breeding. Northern right-whale dolphin, CA/OR/WA. Pacific white-sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Short-beaked common dolphin, CA/OR/WA.
HI inshore gillnet	39	Bottlenose dolphin, HI. Spinner dolphin, HI.
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing)	24	Harbor seal, OR/WA coast.
WA/OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet	913	None documented.
WA/OR lower Columbia River (includes tributaries) drift gillnet	110	California sea lion, U.S. Harbor seal, OR/WA coast.
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast. Northern elephant seal, CA breeding.
PURSE SEINE, BEACH SEINE, ROUND HAUL, THROW NET AND TANGLE NET FISHERIES:		
AK Southeast salmon purse seine	415	None documented in recent years.
AK Metlakatla salmon purse seine	10	None documented.
AK miscellaneous finfish beach seine	1	None documented.
AK miscellaneous finfish purse seine	0	None documented.
AK octopus/squid purse seine	0	None documented.
AK roe herring and food/bait herring beach seine	4	None documented.
AK roe herring and food/bait herring purse seine	361	None documented.
AK salmon beach seine	31	None documented.
AK salmon purse seine (excluding salmon purse seine fisheries listed as Category II).	936	Harbor seal, GOA.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
CA anchovy, mackerel, sardine purse seine	65	California sea lion, U.S. Harbor seal, CA.
CA squid purse seine	65	Long-beaked common dolphin, CA. Short-beaked common dolphin, CA/OR/WA.
CA tuna purse seine*	10	None documented.
WA/OR sardine purse seine	42	None documented.
WA (all species) beach seine or drag seine	235	None documented.
WA/OR herring, smelt, squid purse seine or lampara	130	None documented.
WA salmon purse seine	440	None documented.
WA salmon reef net	53	None documented.
HI opelu/akule net	20	None documented.
HI inshore purse seine	8	None documented.
HI throw net, cast net	28	None documented.
HI hukilau net	36	None documented.
HI lobster tangle net	2	None documented.
DIP NET FISHERIES:		
CA squid dip net	115	None documented.
WA/OR smelt, herring dip net	119	None documented.
MARINE AQUACULTURE FISHERIES:		
CA marine shellfish aquaculture	unknown	None documented.
CA salmon enhancement rearing pen	>1	None documented.
CA white seabass enhancement net pens	13	California sea lion, U.S.
HI offshore pen culture	2	None documented.
OR salmon ranch	1	None documented.
WA/OR salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters.
TROLL FISHERIES:		
AK North Pacific halibut, AK bottom fish, WA/OR/CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries*.	1,302 (102 AK)	None documented.
AK salmon troll	2,045	Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
American Samoa tuna troll	<50	None documented.
CA/OR/WA salmon troll	4,300	None documented.
Commonwealth of the Northern Mariana Islands tuna troll	88	None documented.
Guam tuna troll	401	None documented.
HI trolling, rod and reel	2,210	None documented.
LONGLINE/SET LINE FISHERIES:		
AK Bering Sea, Aleutian Islands Greenland turbot longline	29	Killer whale, AK resident.
AK Bering Sea, Aleutian Islands rockfish longline	0	None documented.
AK Bering Sea, Aleutian Islands sablefish longline	28	None documented.
AK Gulf of Alaska halibut longline	1,302	None documented.
AK Gulf of Alaska Pacific cod longline	440	None documented.
AK Gulf of Alaska rockfish longline	0	None documented.
AK Gulf of Alaska sablefish longline	291	Sperm whale, North Pacific. Steller sea lion, Eastern U.S.
AK halibut longline/set line (State and Federal waters)	2,521	Steller sea lion, Western U.S.
AK octopus/squid longline	2	None documented.
AK State-managed waters longline/setline (including sablefish, rockfish, lingcod, and miscellaneous finfish).	1,448	None documented.
WA/OR/CA groundfish, bottomfish longline/set line	367	None documented.
WA/OR North Pacific halibut longline/set line	350	None documented.
CA pelagic longline	6	None documented in recent years.
HI kaka line	28	None documented.
HI vertical longline	18	None documented.
TRAWL FISHERIES:		
AK Bering Sea, Aleutian Islands Atka mackerel trawl	9	Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands Pacific cod trawl	93	Harbor seal, Bering Sea. Steller sea lion, Western U.S.
AK Bering Sea, Aleutian Islands rockfish trawl	10	None documented.
AK Gulf of Alaska flatfish trawl	41	None documented.
AK Gulf of Alaska Pacific cod trawl	62	Steller sea lion, Western U.S.
AK Gulf of Alaska pollock trawl	62	Fin whale, Northeast Pacific. Northern elephant seal, North Pacific. Steller sea lion, Western U.S.
AK Gulf of Alaska rockfish trawl	34	None documented.
AK food/bait herring trawl	4	None documented.
AK miscellaneous finfish otter/beam trawl	317	None documented.
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet)	32	None documented.
AK State-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl.	2	None documented.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
CA halibut bottom trawl	53	None documented.
WA/OR/CA shrimp trawl	300	None documented.
WA/OR/CA groundfish trawl	160–180	California sea lion, U.S. Dall's porpoise, CA/OR/WA. Harbor seal, OR/WA coast. Northern fur seal, Eastern Pacific. Pacific white-sided dolphin, CA/OR/WA. Steller sea lion, Eastern U.S.
POT, RING NET, AND TRAP FISHERIES:		
AK statewide miscellaneous finfish pot	293	None documented.
AK Aleutian Islands sablefish pot	8	None documented.
AK Bering Sea, Aleutian Islands Pacific cod pot	68	None documented.
AK Bering Sea, Aleutian Islands crab pot	297	None documented.
AK Gulf of Alaska crab pot	300	None documented.
AK Gulf of Alaska Pacific cod pot	154	Harbor seal, GOA.
AK Southeast Alaska crab pot	433	Humpback whale, Central North Pacific (Southeast AK).
AK Southeast Alaska shrimp pot	283	Humpback whale, Central North Pacific (Southeast AK).
AK shrimp pot, except Southeast	15	None documented.
AK octopus/squid pot	27	None documented.
AK snail pot	1	None documented.
CA coonstripe shrimp, rock crab, tanner crab pot or trap	305	Gray whale, Eastern North Pacific. Harbor seal, CA.
CA spiny lobster	225	Gray whale, Eastern North Pacific.
OR/CA hagfish pot or trap	54	None documented.
WA/OR shrimp pot/trap	254	None documented.
WA Puget Sound Dungeness crab pot/trap	249	None documented.
HI crab trap	9	None documented.
HI fish trap	11	None documented.
HI lobster trap	3	Hawaiian monk seal.
HI shrimp trap	1	None documented.
HI crab net	8	None documented.
HI Kona crab loop net	41	None documented.
HANDLINE AND JIG FISHERIES:		
AK miscellaneous finfish handline/hand troll and mechanical jig	445	None documented.
AK North Pacific halibut handline/hand troll and mechanical jig	228	None documented.
AK octopus/squid handline	0	None documented.
American Samoa bottomfish	<50	None documented.
Commonwealth of the Northern Mariana Islands bottomfish	<50	None documented.
Guam bottomfish	200	None documented.
HI aku boat, pole, and line	6	None documented.
HI Main Hawaiian Islands deep-sea bottomfish handline	580	Hawaiian monk seal.
HI inshore handline	460	None documented.
HI tuna handline	531	None documented.
WA groundfish, bottomfish jig	679	None documented.
Western Pacific squid jig	6	None documented.
HARPOON FISHERIES:		
CA swordfish harpoon	30	None documented.
POUND NET/WEIR FISHERIES:		
AK herring spawn on kelp pound net	415	None documented.
AK Southeast herring roe/food/bait pound net	6	None documented.
WA herring brush weir	1	None documented.
HI bullpen trap	4	None documented.
BAIT PENS:		
WA/OR/CA bait pens	13	California sea lion, U.S.
DREDGE FISHERIES:		
Coastwide scallop dredge	108 (12 AK)	None documented.
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
AK abalone	0	None documented.
AK clam	156	None documented.
WA herring spawn on kelp	4	None documented.
AK Dungeness crab	2	None documented.
AK herring spawn on kelp	266	None documented.
AK urchin and other fish/shellfish	570	None documented.
CA abalone	0	None documented.
CA sea urchin	583	None documented.
HI black coral diving	1	None documented.
HI fish pond	N/A	None documented.

TABLE 1—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species and stocks incidentally killed or injured
HI handpick	53	None documented.
HI lobster diving	36	None documented.
HI spearfishing	163	None documented.
WA/CA kelp	4	None documented.
WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection.	637	None documented.
WA shellfish aquaculture	684	None documented.
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
AK/WA/OR/CA commercial passenger fishing vessel	>7,000 (2,702 AK)	Killer whale, stock unknown. Steller sea lion, Eastern U.S. Steller sea lion, Western U.S.
HI charter vessel	114	None documented.
LIVE FINFISH/SHELLFISH FISHERIES:		
CA nearshore finfish live trap/hook-and-line	93	None documented.

List of Abbreviations and Symbols Used in Table 1: AK—Alaska; CA—California; GOA—Gulf of Alaska; HI—Hawaii; OR—Oregon; WA—Washington.

[1] Fishery classified based on serious injuries and mortalities of this stock, which are greater than 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR.

[2] Fishery classified by analogy.

* Fishery has an associated high seas component listed in Table 3.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN

Fishery description	Estimated No. of vessels/persons	Marine mammal species and stocks incidentally killed or injured
CATEGORY I		
GILLNET FISHERIES:		
Mid-Atlantic gillnet	5,495	Bottlenose dolphin, Northern Migratory coastal[1] Bottlenose dolphin, Southern Migratory coastal.[1] Bottlenose dolphin, Northern NC estuarine system.[1] Bottlenose dolphin, Southern NC estuarine system.[1] Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Gray seal, WNA. Harbor porpoise, GME/BF. Harbor seal, WNA. Harp seal, WNA. Humpback whale, Gulf of Maine. Long-finned pilot whale, WNA. Minke whale, Canadian east coast. Short-finned pilot whale, WNA. White-sided dolphin, WNA.
Northeast sink gillnet	7,712	Bottlenose dolphin, WNA offshore. Common dolphin, WNA. Fin whale, WNA. Gray seal, WNA. Harbor porpoise, GME/BF.[1] Harbor seal, WNA. Harp seal, WNA. Hooded seal, WNA. Humpback whale, Gulf of Maine. Minke whale, Canadian east coast. North Atlantic right whale, WNA. Risso's dolphin, WNA. White-sided dolphin, WNA.
TRAP/POT FISHERIES:		
Northeast/Mid-Atlantic American lobster trap/pot	12,489	Harbor seal, WNA. Humpback whale, Gulf of Maine. Minke whale, Canadian east coast. North Atlantic right whale, WNA.[1]
LONGLINE FISHERIES:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline*	94	Atlantic spotted dolphin, Northern GMX. Atlantic spotted dolphin, WNA. Bottlenose dolphin, Northern GMX oceanic. Bottlenose dolphin, Northern GMX continental shelf. Bottlenose dolphin, WNA offshore.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated No. of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
		Common dolphin, WNA.
		Cuvier's beaked whale, WNA.
		Long-finned pilot whale, WNA.[1]
		Mesoplodon beaked whale, WNA.
		Northern bottlenose whale, WNA.
		Pantropical spotted dolphin, Northern GMX.
		Pantropical spotted dolphin, WNA.
		Risso's dolphin, Northern GMX.
		Risso's dolphin, WNA.
		Short-finned pilot whale, Northern GMX.
		Short-finned pilot whale, WNA.[1]
CATEGORY II		
GILLNET FISHERIES:		
Chesapeake Bay inshore gillnet[2]	1,167	None documented in recent years.
Gulf of Mexico gillnet[2]	724	Bottlenose dolphin, Eastern GMX coastal.
		Bottlenose dolphin, GMX bay, sound, and estuarine.
		Bottlenose dolphin, Northern GMX coastal.
		Bottlenose dolphin, Western GMX coastal.
NC inshore gillnet	2,250	Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Southern NC estuarine system.[1]
Northeast anchored float gillnet[2]	662	Harbor seal, WNA.
		Humpback whale, Gulf of Maine.
		White-sided dolphin, WNA.
Northeast drift gillnet[2]	608	None documented.
Southeast Atlantic gillnet[2]	779	Bottlenose dolphin, Southern Migratory coastal.
		Bottlenose dolphin, GA coastal.
		Bottlenose dolphin, Central FL coastal.
		Bottlenose dolphin, Northern FL coastal.
		Bottlenose dolphin, SC coastal.
Southeastern U.S. Atlantic shark gillnet	30	Atlantic spotted dolphin, WNA.
		Bottlenose dolphin, Central FL coastal.[1]
		North Atlantic right whale, WNA.
TRAWL FISHERIES:		
Mid-Atlantic mid-water trawl (including pair trawl)	546	Bottlenose dolphin, WNA offshore.
		Common dolphin, WNA.
		Long-finned pilot whale, WNA.
		Risso's dolphin, WNA.
		Short-finned pilot whale, WNA.
		White-sided dolphin, WNA.[1]
Mid-Atlantic bottom trawl	1,182	Bottlenose dolphin, WNA offshore.
		Common dolphin, WNA.[1]
		Long-finned pilot whale, WNA.[1]
		Short-finned pilot whale, WNA.[1]
		White-sided dolphin, WNA.
Northeast mid-water trawl (including pair trawl)	953	Harbor seal, WNA.
		Long-finned pilot whale, WNA.[1]
		Short-finned pilot whale, WNA.[1]
		White-sided dolphin, WNA.
Northeast bottom trawl	1,635	Common dolphin, WNA.
		Harbor porpoise, GME/BF.
		Harbor seal, WNA.
		Harp seal, WNA.
		Long-finned pilot whale, WNA.
		Short-finned pilot whale, WNA.
		White-sided dolphin, WNA.[1]
Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl	4,950	Atlantic spotted dolphin, Northern GMX.
		Bottlenose dolphin, GA coastal.[1]
		Bottlenose dolphin, SC coastal.[1]
		Bottlenose dolphin, Eastern GMX coastal.[1]
		Bottlenose dolphin, Western GMX coastal.[1]
		Bottlenose dolphin, GMX bay, sound, estuarine.[1]
		West Indian manatee, FL.
TRAP/POT FISHERIES:		
Atlantic blue crab trap/pot	6,479	Bottlenose dolphin, Charleston estuarine system.[1]
		Bottlenose dolphin, Indian River Lagoon estuarine system.[1]
		Bottlenose dolphin, Jacksonville estuarine system.[1]

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated No. of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
		Bottlenose dolphin, GA coastal.[1]
		Bottlenose dolphin, Northern GA/Southern SC estuarine system.[1]
		Bottlenose dolphin, Southern GA estuarine system.[1]
		Bottlenose dolphin, Northern Migratory coastal.[1]
		Bottlenose dolphin, Southern Migratory coastal.[1]
		Bottlenose dolphin, Central FL coastal.[1]
		Bottlenose dolphin, Northern FL coastal.[1]
		Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Southern NC estuarine system.[1]
		Bottlenose dolphin, SC coastal.[1]
		West Indian manatee, FL.[1]
Atlantic mixed species trap/pot[2]	1,912	Fin whale, WNA.
		Humpback whale, Gulf of Maine.
PURSE SEINE FISHERIES:		
Gulf of Mexico menhaden purse seine	40–42	Bottlenose dolphin, Eastern GMX coastal.
		Bottlenose dolphin, GMX bay, sound, estuarine.
		Bottlenose dolphin, Northern GMX coastal.[1]
		Bottlenose dolphin, Western GMX coastal.[1]
Mid-Atlantic menhaden purse seine[2]	54	Bottlenose dolphin, Northern Migratory coastal.
		Bottlenose dolphin, Southern Migratory coastal.
HAUL/BEACH SEINE FISHERIES:		
Mid-Atlantic haul/beach seine	666	Bottlenose dolphin, Northern NC estuarine system.[1]
		Bottlenose dolphin, Northern Migratory coastal.[1]
		Bottlenose dolphin, Southern Migratory coastal.[1]
NC long haul seine	372	Bottlenose dolphin, Northern NC estuarine system.[1]
STOP NET FISHERIES:		
NC roe mullet stop net	13	Bottlenose dolphin, Southern NC estuarine system.[1]
POUND NET FISHERIES:		
VA pound net	52	Bottlenose dolphin, Northern Migratory coastal.[1]
		Bottlenose dolphin, Southern Migratory coastal.[1]
CATEGORY III		
GILLNET FISHERIES:		
Caribbean gillnet	>991	Dwarf sperm whale, WNA.
		West Indian manatee, Antillean.
DE River inshore gillnet	60	None documented in recent years.
Long Island Sound inshore gillnet	20	None documented in recent years.
RI, southern MA (to Monomoy Island), and NY Bight (Raritan and Lower NY Bays) inshore gillnet.	32	None documented in recent years.
Southeast Atlantic inshore gillnet	U	None documented.
TRAWL FISHERIES:		
Atlantic shellfish bottom trawl	>67	None documented.
Gulf of Mexico butterfish trawl	2	Bottlenose dolphin, Northern GMX oceanic.
		Bottlenose dolphin, Northern GMX continental shelf.
Gulf of Mexico mixed species trawl	20	None documented.
GA cannonball jellyfish trawl	1	None documented.
MARINE AQUACULTURE FISHERIES:		
Finfish aquaculture	48	Harbor seal, WNA.
Shellfish aquaculture	U	None documented.
PURSE SEINE FISHERIES:		
Gulf of Maine Atlantic herring purse seine	>7	Harbor seal, WNA.
		Gray seal, WNA.
Gulf of Maine menhaden purse seine	>2	None documented.
FL West Coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal.
U.S. Atlantic tuna purse seine*	5	Long-finned pilot whale, WNA.
		Short-finned pilot whale, WNA.
LONGLINE/HOOK-AND-LINE FISHERIES:		
Northeast/Mid-Atlantic bottom longline/hook-and-line	1,183	None documented in recent years.
Gulf of Maine, U.S. Mid-Atlantic tuna, shark swordfish hook-and-line/harpoon.	>403	Humpback whale, Gulf of Maine.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean snapper-grouper and other reef fish bottom longline/hook-and-line.	>5,000	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line.	<125	Bottlenose dolphin, Eastern GMX coastal.
		Bottlenose dolphin, Northern GMX continental shelf.
Southeastern U.S. Atlantic, Gulf of Mexico, and Caribbean pelagic hook-and-line/harpoon.	1,446	None documented.
U.S. Atlantic, Gulf of Mexico trotline	U	None documented.

TABLE 2—LIST OF FISHERIES—COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated No. of vessels/ persons	Marine mammal species and stocks incidentally killed or injured
TRAP/POT FISHERIES		
Caribbean mixed species trap/pot	>501	None documented.
Caribbean spiny lobster trap/pot	>197	None documented.
FL spiny lobster trap/pot	2,145	Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, FL Bay estuarine.
Gulf of Mexico blue crab trap/pot	4,113	Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX bay, sound, & estuarine. West Indian manatee, FL.
Gulf of Mexico mixed species trap/pot	U	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico golden crab trap/pot	10	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico stone crab trap/pot	4,453	Bottlenose dolphin, Biscayne Bay estuarine.
U.S. Mid-Atlantic eel trap/pot	>700	None documented.
STOP SEINE/WEIR/POUND NET FISHERIES:		
Gulf of Maine herring and Atlantic mackerel stop seine/weir	U	Gray seal, Northwest North Atlantic. Harbor porpoise, GME/BF. Harbor seal, WNA. Minke whale, Canadian East Coast. White-sided dolphin, WNA.
U.S. Mid-Atlantic crab stop seine/weir	2,600	None documented.
U.S. Mid-Atlantic mixed species stop seine/weir/pound net (except the NC roe mullet stop net).	U	Bottlenose dolphin, Northern NC estuarine system.
DREDGE FISHERIES:		
Gulf of Maine mussel dredge	U	None documented.
Gulf of Maine, U.S. Mid-Atlantic sea scallop dredge	258	None documented.
U.S. Mid-Atlantic/Gulf of Mexico oyster dredge	7,000	None documented.
U.S. Mid-Atlantic offshore surf clam and quahog dredge	U	None documented.
HAUL/BEACH SEINE FISHERIES:		
Caribbean haul/beach seine	15	West Indian manatee, Antillean.
Gulf of Mexico haul/beach seine	U	None documented.
Southeastern U.S. Atlantic haul/beach seine	25	None documented.
DIVE, HAND/MECHANICAL COLLECTION FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection.	20,000	None documented.
Gulf of Maine urchin dive, hand/mechanical collection	U	None documented.
Gulf of Mexico, Southeast Atlantic, Mid-Atlantic, and Caribbean cast net.	U	None documented.
COMMERCIAL PASSENGER FISHING VESSEL (CHARTER BOAT) FISHERIES:		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel.	4,000	Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Biscayne Bay estuarine. Bottlenose dolphin, Indian River Lagoon estuarine system. Bottlenose dolphin, Southern NC estuarine system.

List of Abbreviations and Symbols Used in Table 2: DE—Delaware; FL—Florida; GA—Georgia; GME/BF—Gulf of Maine/Bay of Fundy; GMX—Gulf of Mexico; MA—Massachusetts; NC—North Carolina; SC—South Carolina; VA—Virginia; WNA—Western North Atlantic.

[1] Fishery classified based on serious injuries and mortalities of this stock, which are greater than 50 percent (Category I) or greater than 1 percent and less than 50 percent (Category II) of the stock's PBR.

[2] Fishery classified by analogy.

* Fishery has an associated high seas component listed in Table 3.

BILLING CODE 3510–22–P

Table 3 - List of Fisheries -- Commercial Fisheries on the High Seas

Fishery Description	# of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
Category I		
LONGLINE FISHERIES:		
Atlantic Highly Migratory Species * +	77	Atlantic spotted dolphin, WNA Bottlenose dolphin, Northern GMX oceanic Bottlenose dolphin, WNA offshore Common dolphin, WNA Cuvier's beaked whale, WNA Long-finned pilot whale, WNA Mesoplodon beaked whale, WNA Pygmy sperm whale, WNA Risso's dolphin, WNA Short-finned pilot whale, WNA
Western Pacific Pelagic (Deep-set component) * ^+	127	Blainville's beaked whale, HI Bottlenose dolphin, HI Pelagic False killer whale, HI Pelagic Humpback whale, Central North Pacific Pantropical spotted dolphin, HI Risso's dolphin, HI Short-finned pilot whale, HI Striped dolphin, HI
Category II		
DRIFT GILLNET FISHERIES:		
Atlantic Highly Migratory Species	1	Undetermined
TRAWL FISHERIES:		
Atlantic Highly Migratory Species **	3	Undetermined
Pacific Highly Migratory Species **	2	Undetermined
CCAMLR	0	Antarctic fur seal
South Pacific Albacore Troll	2	Undetermined
Western Pacific Pelagic	3	Undetermined
PURSE SEINE FISHERIES:		
Pacific Highly Migratory Species * ^	8	None documented
South Pacific Tuna Fisheries	35	Undetermined
Western Pacific Pelagic	3	Undetermined

Fishery Description	# of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
POT VESSEL FISHERIES:		
Pacific Highly Migratory Species **	7	Undetermined
South Pacific Albacore Troll	5	Undetermined
Western Pacific Pelagic	7	Undetermined
LONGLINE FISHERIES:		
CCAMLR	0	None documented
Pacific Highly Migratory Species * +	75	Risso's dolphin, CA/OR/WA
South Pacific Albacore Troll	11	Undetermined
South Pacific Tuna Fisheries **	8	Undetermined
Western Pacific Pelagic (Shallow-set component) * ^+	28	Bottlenose dolphin, HI Pelagic Bryde's whale, HI Humpback whale, Central North Pacific Kogia sp. whale (Pygmy or dwarf sperm whale), HI Risso's dolphin, HI Striped dolphin, HI
HANDLINE/POLE AND LINE FISHERIES:		
Atlantic Highly Migratory Species	2	Undetermined
Pacific Highly Migratory Species	25	Undetermined
South Pacific Albacore Troll	8	Undetermined
Western Pacific Pelagic	10	Undetermined
TROLL FISHERIES:		
Atlantic Highly Migratory Species	7	Undetermined
South Pacific Albacore Troll	59	Undetermined
South Pacific Tuna Fisheries **	3	Undetermined
Western Pacific Pelagic	40	Undetermined
LINERS NEI FISHERIES:		
Pacific Highly Migratory Species **	1	Undetermined
South Pacific Albacore Troll	1	Undetermined
Western Pacific Pelagic	1	Undetermined
FACTORY MOTHERSHIP FISHERIES:		

Fishery Description	# of HSFCA permits	Marine mammal species and stocks incidentally killed or injured
Western Pacific Pelagic	1	Undetermined
MULTIPURPOSE VESSELS NEI FISHERIES:		
Atlantic Highly Migratory Species	1	Undetermined
Pacific Highly Migratory Species **	7	Undetermined
South Pacific Albacore Troll	4	Undetermined
Western Pacific Pelagic	5	Undetermined
Category III		
DRIFT GILLNET FISHERIES:		
Pacific Highly Migratory Species * ^	3	Long-beaked common dolphin, CA Northern right-whale dolphin, CA/OR/WA Pacific white-sided dolphin, CA/OR/WA Risso's dolphin, CA/OR/WA Short-beaked common dolphin, CA/OR/WA Short-finned pilot whale, CA/OR/WA
TROLL FISHERIES:		
Pacific Highly Migratory Species *	271	None documented

List of Terms, Abbreviations, and Symbols Used in Table 3:
GMX- Gulf of Mexico.
NEI - Not Elsewhere Identified.
WNA - Western North Atlantic.
* Fishery is an extension/component of an existing fishery operating within U.S. waters listed in Table 1 or 2. The number of permits listed in Table 3 represents only the number of permits for the high seas component of the fishery.
** These gear types are not authorized under the Pacific HMS FMP (2004), the Atlantic HMS FMP (2006), or without a South Pacific Tuna Treaty license (in the case of the South Pacific Tuna fisheries). Because HSFCA permits are valid for five years, permits obtained in past years exist in the HSFCA permit database for gear types that are now unauthorized. Therefore, while HSFCA permits exist for these gear types, it does not represent effort. In order to land fish species, fishers must be using an authorized gear type. Once these permits for unauthorized gear types expire, the permit-holder will be required to obtain a permit for an authorized gear type.
+ The marine mammal species or stock listed as killed or injured in this fishery has been observed taken by this fishery on the high seas.
^ The list of marine mammal species killed or injured in this fishery is identical to the list of marine mammal species killed or injured in U.S. waters component of the fishery, minus coastal stocks, because the marine mammal species are also found on the high seas and the fishery remains the same on both sides of the EEZ boundary. Therefore, the high seas components of these fisheries pose the same risk to marine mammals as the fisheries operating in U.S. waters.

Table 4 - Fisheries Affected by Take Reduction Teams and Plans

Take Reduction Plans	Affected Fisheries
Atlantic Large Whale Take Reduction Plan (ALWTRP) - 50 CFR 229.32	Category I Mid-Atlantic gillnet Northeast/Mid-Atlantic American lobster trap/pot Northeast sink gillnet Category II Atlantic blue crab trap/pot Atlantic mixed species trap/pot Northeast anchored float gillnet Northeast drift gillnet Southeast Atlantic gillnet Southeastern U.S. Atlantic shark gillnet*
Bottlenose Dolphin Take Reduction Plan (BDTRP) - 50 CFR 229.35	Category I Mid-Atlantic gillnet Category II Atlantic blue crab trap/pot Mid-Atlantic haul/beach seine NC inshore gillnet NC long haul seine NC roe mullet stop net Southeast Atlantic gillnet Southeastern U.S. Atlantic shark gillnet VA pound net
Harbor Porpoise Take Reduction Plan (HPTRP) - 50 CFR 229.33 (New England) and 229.34 (Mid-Atlantic)	Category I Mid-Atlantic gillnet Northeast sink gillnet
Pelagic Longline Take Reduction Plan (PLTRP) – 50 CFR 229.36	Category I Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline
Pacific Offshore Cetacean Take Reduction Plan (POCTRP) - 50 CFR 229.31	Category I CA/OR thresher shark/swordfish drift gillnet (≥14 in mesh)
Take Reduction Teams	Affected Fisheries
Atlantic Trawl Gear Take Reduction Team (ATGTRT)	Category II Mid-Atlantic bottom trawl Mid-Atlantic mid-water trawl (including pair trawl) Northeast bottom trawl Northeast mid-water trawl (including pair trawl)
False Killer Whale Take Reduction Team (FKWTRT)	Category I HI deep-set (tuna target) longline/set line Category II HI shallow-set (swordfish target) longline/set line

* Only applicable to the portion of the fishery operating in U.S. waters.
For a description of each Take Reduction Team and copies of Take Reduction Plans, access:
http://www.nmfs.noaa.gov/pr/interactions/trt/

BILLING CODE 3510–22–C

Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. The factual basis leading to the certification is set forth below.

Under existing regulations, all individuals participating in Category I or II fisheries must register under the MMPA and obtain an Authorization Certificate. The Authorization Certificate authorizes the taking of non-endangered and non-threatened marine mammals incidental to commercial fishing operations. Additionally, individuals may be subject to a Take Reduction Plan (TRP) and requested to carry an observer. NMFS has estimated that approximately 72,000 fishing vessels, most of which are small entities, may operate in Category I or II fisheries, and therefore, are required to register with NMFS. The MMPA registration process is integrated with existing state and Federal licensing, permitting, and registration programs. Therefore, individuals who have a state or Federal fishing permit or landing license, or who are authorized through another related state or Federal fishery registration program, are currently not required to register separately under the MMPA or pay the $25 registration fee. Therefore, there are no direct costs to small entities under this proposed rule.

If a vessel is requested to carry an observer, individuals will not incur any direct economic costs associated with carrying that observer. Potential indirect costs to individuals required to take observers may include: Lost space on deck for catch, lost bunk space, and lost fishing time due to time needed to process bycatch data. For effective monitoring, however, observers will rotate among a limited number of vessels in a fishery at any given time and each vessel within an observed fishery has an equal probability of being requested to accommodate an observer. Therefore, the potential indirect costs to individuals are expected to be minimal because observer coverage would only be required for a small percentage of an individual's total annual fishing time. In addition, section 118 of the MMPA states that an observer will not be placed on a vessel if the facilities for quartering an observer or performing observer functions are inadequate or unsafe, thereby exempting vessels too small to accommodate an observer from this requirement. As a result of this certification, an initial regulatory flexibility analysis is not required and was not prepared. In the event that reclassification of a fishery to Category I or II results in a TRP, economic analyses of the effects of that plan would be summarized in subsequent rulemaking actions.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collection of information for the registration of individuals under the MMPA has been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0293 (0.15 hours per report for new registrants and 0.09 hours per report for renewals). The requirement for reporting marine mammal injuries or mortalities has been approved by OMB under OMB control number 0648–0292 (0.15 hours per report). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing burden, to NMFS and OMB (see **ADDRESSES** and **SUPPLEMENTARY INFORMATION**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

An environmental assessment (EA) was prepared under the National Environmental Policy Act (NEPA) for regulations to implement section 118 of the MMPA in June 1995. NMFS revised that EA relative to classifying U.S. commercial fisheries on the LOF in December 2005. Both the 1995 EA and the 2005 EA concluded that implementation of MMPA section 118 regulations would not have a significant impact on the human environment. This proposed rule would not make any significant change in the management of reclassified fisheries, and therefore, this proposed rule is not expected to change the analysis or conclusion of the 2005 EA. The Council of Environmental Quality (CEQ) recommends agencies review EAs every five years; therefore, NMFS reviewed the 2005 EA in 2009. NMFS concluded that, because there have been no changes to the process used to develop the LOF and implement section 118 of the MMPA (including no new alternatives and no additional or new impacts on the human environment), there is no need to update the 2005 EA at this time. If NMFS takes a management action, for example, through the development of a TRP, NMFS would first prepare an environmental document, as required under NEPA, specific to that action.

This proposed rule would not affect species listed as threatened or endangered under the Endangered Species Act (ESA) or their associated critical habitat. The impacts of numerous fisheries have been analyzed in various biological opinions, and this proposed rule will not affect the conclusions of those opinions. The classification of fisheries on the LOF is not considered to be a management action that would adversely affect threatened or endangered species. If NMFS takes a management action, for example, through the development of a TRP, NMFS would conduct consultation under ESA section 7 for that action.

This proposed rule would have no adverse impacts on marine mammals and may have a positive impact on marine mammals by improving knowledge of marine mammals and the fisheries interacting with marine mammals through information collected from observer programs, stranding and sighting data, or take reduction teams.

This proposed rule would not affect the land or water uses or natural resources of the coastal zone, as specified under section 307 of the Coastal Zone Management Act.

Dated: June 18, 2010.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–15318 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 75, No. 122

Friday, June 25, 2010

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 22, 2010.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: 7 CFR Part 226 Child and Adult Care Food Program.

OMB Control Number: 0584–0055.

Summary of Collection: Section 17 of the National School Lunch Act, as amended (42 U.S.C. 1766), authorizes the Secretary of Agriculture to provide cash reimbursement and commodity assistance, on a per meal basis, for food service to children in nonresidential child care centers and family or group day care homes, and to eligible adults in nonresidential adult day care centers. The Food and Nutrition Service (FNS) has established application, monitoring, recordkeeping, and reporting requirements to manage the Program effectively, and ensure that the legislative intent of this mandate is responsibly implemented.

Need and Use of the Information: The information collected is necessary to enable institutions wishing to participate in the Child and Adult Care Food Program to submit applications to the administering agencies, execute agreements with those agencies, and claim the reimbursement to which they are entitled by law. FNS and State agencies administering the program will use the collected information to determine eligibility of institutions to participate in the program, ensure acceptance of responsibility in managing an effective food service, implement systems for appropriating program funds, and ensure compliance with all statutory and regulatory requirements.

Description of Respondents: Business or other for-profit; State, Local, or Tribal Government; Individuals or households; Not-for-profit institutions.

Number of Respondents: 2,200,066.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Semi-annually; Monthly and Annually.

Total Burden Hours: 7,033,090.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–15459 Filed 6–24–10; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Olympic National Forest; Title II Resource Advisory Committee Meeting Advisory

AGENCY: Olympic National Forest, USDA Forest Service.

ACTION: Notice of meeting.

SUMMARY: The Olympic Peninsula Resource Advisory Committee will meet this July in Montesano, Washington. The purpose of this meeting will be to review project proposals and provide recommendations for Title II projects to be funded by the Secure Rural Schools and Community Self-Determination Act.

DATES: The meeting will be held on July 14, 2010, from 8:30 a.m. until 4:30 p.m. A public input session will be provided at the meeting. Comments will be limited to three minutes per person.

ADDRESSES: The meeting will be held at the Montesano City Hall, located at 112 North Main Street, Montesano, WA 98563.

For Additional Information Contact: Dale Horn, Forest Supervisor, the Designated Federal Official for the Olympic National Forest Resource Advisory Committee, at 360–956–2300, 1835 Black Lake Blvd., SW., Olympia, WA 98512.

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Project discussion will be limited to Resource Advisory Committee members and Forest Service personnel. However, a public input session will be provided on the agenda, and individuals will have the opportunity to address the committee at that time.

Dated: June 18, 2010.

Luis Santoyo,

Acting Forest Supervisor.

[FR Doc. 2010–15310 Filed 6–24–10; 8:45 am]

BILLING CODE M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2010-0062]

Notice of Request for Extension of Approval of an Information Collection; Importation of Unshu Oranges

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the importation of Unshu oranges from Kyushu Island, Honshu Island, and Shikoku Island, Japan.

DATES: We will consider all comments that we receive on or before August 24, 2010.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0062*) to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send one copy of your comment to Docket No. APHIS-2010-0062, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2010-0062.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at (*http://www.aphis.usda.gov*).

FOR FURTHER INFORMATION CONTACT: For information on regulations for the importation of Unshu oranges from Kyushu Island, Honshu Island, and Shikoku Island, Japan, contact Ms. Donna L. West, Senior Import Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 734-0627. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

SUPPLEMENTARY INFORMATION:

Title: Importation of Unshu Oranges.

OMB Number: 0579-0173.

Type of Request: Extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. As authorized by the PPA, the Animal and Plant Health Inspection Service regulates the importation of citrus fruit from certain parts of the world as provided in "Subpart—Citrus Fruit" (7 CFR 319.28).

In accordance with these regulations, Unshu oranges from Kyushu Island, Honshu Island, and Shikoku Island, Japan, may be imported only under certain conditions to prevent the introduction of plant pests into the United States. These conditions involve the use of information collection activities, including a phytosanitary certificate with an additional declaration statement and box labeling.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.0830918 hours per response.

Respondents: Full-time salaried plant health officials of Japan's plant protection service and growers of Unshu oranges.

Estimated annual number of respondents: 23.

Estimated annual number of responses per respondent: 2,896.2173.

Estimated annual number of responses: 66,613.

Estimated total annual burden on respondents: 5,535 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 21st day of June 2010.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–15454 Filed 6–24–10; 2:16 pm]

BILLING CODE 3410–34–S

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2010-0032]

Determination of Pest-Free Areas in Mendoza Province, Argentina; Request for Comments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have received a request from the Government of Argentina to recognize additional areas as pest-free areas for Mediterranean fruit fly (*Ceratitis capitata*) in Argentina. After reviewing the documentation submitted in support of this request, the Administrator of the Animal and Plant Health Inspection Service has determined that these areas meet the criteria in our regulations for recognition as pest-free areas. We are making that determination, as well as an evaluation document we have prepared in connection with this action, available for review and comment.

DATES: We will consider all comments that we receive on or before August 24, 2010.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0032*) to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send one copy of your comment to Docket No. APHIS-2010-0032, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD

20737-1238. Please state that your comment refers to Docket No. APHIS-2010-0032.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at (*http://www.aphis.usda.gov*).

FOR FURTHER INFORMATION CONTACT: Ms. Meredith C. Jones, Regulatory Coordination Specialist, Regulatory Coordination and Compliance, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737; (301) 734-7467.

SUPPLEMENTARY INFORMATION:

Under the regulations in "Subpart-Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-50, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56-4 of the regulations contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. One of the designated phytosanitary measures is that the fruits or vegetables are imported from a pest-free area in the country of origin that meets the requirements of § 319.56-5 for freedom from that pest and are accompanied by a phytosanitary certificate stating that the fruits or vegetables originated in a pest-free area in the country of origin.

Under the regulations in § 319.56-5, APHIS requires that determinations of pest-free areas be made in accordance with the criteria for establishing freedom from pests found in International Standards for Phytosanitary Measures (ISPM) No. 4, "Requirements For the Establishment of Pest Free Areas." The international standard was established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization and is incorporated by reference in our regulations in 7 CFR 300.5. In addition, APHIS must also approve the survey protocol used to determine and maintain pest-free status, as well as protocols for actions to be performed upon detection of a pest. Pest-free areas are subject to audit by APHIS to verify their status.

APHIS has received a request from the Government of Argentina to recognize an additional area of that country as being free of *Ceratitis capitata*, Mediterranean fruit fly (Medfly).[1] Specifically, the Government of Argentina asked that we recognize the Southern and Central Oases in the southern half of Mendoza Province as an area that is free of Medfly.

In accordance with our regulations and the criteria set out in ISPM No. 4, we have reviewed and approved the survey protocols and other information provided by Argentina relative to its system to establish freedom, phytosanitary measures to maintain freedom, and system for the verification of the maintenance of freedom. Because this action concerns the expansion of a currently recognized pest-free area in Argentina from which fruits and vegetables are authorized for importation into the United States, our review of the information presented by Argentina in support of its request is examined in a commodity import evaluation document (CIED) titled "Recognition of additional Provinces as Medfly Pest-Free Areas (PFA) for Argentina."

The CIED may be viewed on the Regulations.gov Web site or in our reading room (see **ADDRESSES** above for instructions for accessing Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the CIED by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**.

Therefore, in accordance with § 319.56-5(c), we are announcing the Administrator's determination that the Southern and Central Oases in the southern half of Mendoza Province meet the criteria of § 319.56-5(a) and (b) with respect to freedom from Medfly. After reviewing the comments we receive on this notice, we will announce our decision regarding the status of this area with respect to their freedom from Medfly. If the Administrator's determination remains unchanged, we will amend the list of pest-free areas to list Southern and Central Oases of the Mendoza Province of Argentina as free of Medfly.

Done in Washington, DC, this 21st day of June 2010.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–15455 Filed 6–24–10; 8:45 pm]

BILLING CODE 3410–34–S

[1] A list of pest-free-areas currently recognized by APHIS can be found at (*http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/DesignatedPestFreeAreas.pdf*).

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Amarillo, TX; Cairo, IL; and State of North Carolina Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designations of Amarillo Grain Exchange, Inc. (Amarillo); Cairo Grain Inspection Agency, Inc. (Cairo); and North Carolina Department of Agriculture (North Carolina) official agencies will end on September 30, 2010. In the March 31, 2010, **Federal Register** (71 FR 16068), GIPSA asked for applications from persons or governmental agencies interested in providing official services in the areas. Applications were due on or before April 30, 2010; GIPSA received no applications. GIPSA is again asking for applications from persons or governmental agencies interested in providing official services in the Amarillo, TX; Cairo, IL; and State of North Carolina Areas.

DATES: Applications are due on or before July 26, 2010.

ADDRESSES: Submit applications concerning this notice using only one of the following methods:

- *Internet:* Apply using FGIS*online*. (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) by clicking on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGIS*online* customer number and USDA eAuthentication username and password prior to applying.
- *Hand Delivery/Courier Address:* Karen W. Guagliardo, Review Branch Chief, Compliance Division, GIPSA, USDA, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250.
- *Mail:* Karen W. Guagliardo, Review Branch Chief, Compliance Division, GIPSA, USDA, STOP 3604, 1400 Independence Avenue, SW., Washington, DC 20250–3604.

Read Applications: All applications will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Karen W. Guagliardo, 202–720–7312 or *Karen.W.Guagliardo@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 7(f)(1) of the United States Grain Standards Act (USGSA) (7 U.S.C. 71–87k) authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services. Under section 7(g)(1) of the USGSA, designations of official agencies are effective for 3 years unless terminated by the Secretary, but may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act.

Areas Open for Designation

Amarillo

Pursuant to section 7(f)(2) of the Act, the following geographic areas, in the States of Oklahoma and Texas are assigned to this official agency:

In Texas:

- Bounded on the North by the Texas-Oklahoma State line;
- Bounded on the East by the eastern Texas-Oklahoma State line south to the Childress County line;
- Bounded on the South by the southern Childress County line to the western Childress County line north to U.S. Route 287; U.S. Route 287 northwest to Donley County; the southern Donley and Armstrong County lines west to Prairie Dog Town Fork of the Red River; Prairie Dog Town Fork of the Red River northwest to State Route 217; State Route 217 west to FM 1062; FM 1062 west to U.S. Route 385; U.S. Route 385 north to the southern Oldham County west; and
- Bounded on the West by the western Oldham, Hartley, and Dallam County lines.

In Oklahoma:

- Beaver, Cimarron, and Texas Counties.

Cairo

Pursuant to section 7(f)(2) of the Act, the following geographic areas, in the States of Illinois, Kentucky, and Tennessee are assigned to this official agency:

In Illinois:

- Bounded on the North from State Route 150 at the Mississippi River north to State Route 3; State Route 3 southeast to State Route 149; State Route 149 east to State Route 13; State Route 13 southeast to U.S. Route 51; U.S. Route 51 south to the northern Union County line; northern Union County east to the Ohio River;
- Bounded on the East by the Ohio River;
- Bounded on the South by the Ohio River west to the Mississippi River; and
- Bounded on the West by the Mississippi River north to State Route 150.

In Kentucky:

- Ballard, McCracken, Livingston, Lyon, Trigg, Calloway, Marshall, Graves, Fulton, Hickman, and Carlisle Counties.

In Tennessee:

- Lake, Obion, Weakley, Henry, Stewart, Montgomery, Dickson, Houston, Benton, and Humphreys Counties.

The Cargill, Inc., grain elevator in Tiptonville, Lake County, Tennessee, which is located within Cairo's assigned areas, is currently serviced, and will continue to be serviced by Midsouth Grain Inspection Service.

North Carolina

Pursuant to section 7(f)(2) of the Act, the entire State of North Carolina, except those export port locations within the State which are serviced by GIPSA, is assigned to this official agency.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic areas specified above under the provisions of section 7(f) of the USGSA and 7 CFR 800.196(d). Designation in the specified geographic areas is for the period beginning October 1, 2010, and ending September 30, 2013. To apply for designation or for more information, contact Karen W. Guagliardo at the address listed above or visit GIPSA's Web site at *http://www.gipsa.usda.gov.*

We consider applications, comments, and other available information when determining which applicant will be designated.

Authority: 7 U.S.C. 71–87k.

J. Dudley Butler,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2010–15458 Filed 6–24–10; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Announcement of Rural Cooperative Development Grant Application Deadlines

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of funding availability.

SUMMARY: USDA Rural Development announces the availability of approximately $7.924 million in competitive grant funds for the fiscal year (FY) 2010 Rural Cooperative Development Grant (RCDG) Program, as provided in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Pub.L. 111–80). The intended effect of this notice is to solicit applications for FY 2010 and award grants on or before August 15, 2010. The maximum award per grant is $225,000 and matching funds are required. In accordance with section 310B(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) as amended by section 6013 of the Food, Conservation, and Energy Act of 2008, the Secretary has determined that a grant period of one year is in the best interest of the program at this time.

Applicants must read this notice carefully, as program requirements have changed.

DATES: Applications for grants must be submitted on paper or electronically according to the following deadlines:

Paper copies must be postmarked and mailed, shipped, or sent overnight no later than August 9, 2010, to be eligible for FY 2010 grant funding. Late applications are not eligible for FY 2010 grant funding.

Electronic copies must be received by August 9, 2010, to be eligible for FY 2010 grant funding. Late applications are not eligible for FY 2010 grant funding.

ADDRESSES: Application materials for a RCDG may be obtained at *http://www.rurdev.usda.gov/rbs/coops/rcdg/rcdg.htm* or by contacting the applicant's USDA Rural Development State Office. Contact information for State Offices can be found at *http://www.rurdev.usda.gov/rbs/coops/rcdg/Contacts.htm.* Submit completed paper applications for a grant to Cooperative Programs, Attn: RCDG Program, 1400 Independence Avenue, SW., Mail Stop 3250, Room 4016–South, Washington, DC 20250–3250. The phone number that should be used for courier delivery is (202) 720–8460.

Submit electronic grant applications at *http://www.grants.gov,* following the instructions found on this Web site.

FOR FURTHER INFORMATION CONTACT: Visit the program Web site at *http://www.rurdev.usda.gov/rbs/coops/rcdg/rcdg.htm* for application assistance or contact your USDA Rural Development State Office. Contact information may be obtained at *http://www.rurdev.usda.gov/rbs/coops/rcdg/Contacts.htm.* Applicants are encouraged to contact their State Offices well in advance of the deadline to discuss their projects and ask any questions about the application process.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Business-Cooperative Service (RBS).

Funding Opportunity Title: Rural Cooperative Development Grant.

Announcement Type: Initial announcement.

Catalog of Federal Domestic Assistance Number: 10.771.

Dates: Application Deadline: Completed applications for grants may be submitted on paper or electronically according to the following deadlines:

Paper copies must be postmarked and mailed, shipped, or sent overnight no later than August 9, 2010, to be eligible for FY 2010 grant funding. Electronic copies must be received by August 9, 2010, to be eligible for FY 2010 grant funding.

Late applications are not eligible for FY 2010 grant funding.

I. Funding Opportunity Description

RCDGs are authorized by section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) as amended by section 6013 of the Food, Conservation and Energy Act of 2008. Regulations implementing this authority are in 7 CFR part 4284, subparts A and F. The primary objective of the RCDG program is to improve the economic condition of rural areas through cooperative development. Grant funds are provided for the establishment and operation of Centers that have the expertise, or who can contract out for the expertise, to assist individuals or entities in the startup, expansion or operational improvement of rural businesses, especially cooperative or mutually-owned businesses (Section 310B(e)(5)). In addition, the Agency is interested specifically in projects designed to help cooperatives and mutually-owned businesses to create wealth in rural communities so that they are self-sustaining, repopulating, and thriving economically, using the following key USDA strategies:

i. Local and regional food systems as a strategy for encouraging production agriculture and related industries in new wealth creation;

ii. Renewable energy generation, energy conservation, and/or climate change adaptation or mitigation as strategies for quality job creation;

iii. Use of broadband and other critical infrastructure as a strategy to facilitate local entrepreneurship and expansion of market opportunities for small businesses;

iv. Access to capital in rural areas as a strategy to ensure continuous business development and job creation/retention; and

v. Innovative utilization of natural resources as a strategy to expand business opportunities.

The program is administered through USDA Rural Development State Offices.

Definitions

The definitions published at 7 CFR 4284.3 and 7 CFR 4284.504 are incorporated by reference. The definition of "rural" and "rural area," at section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a), as amended by Section 6018 of the Food, Conservation, and Energy Act of 2008, are also incorporated by reference. In addition, since there has been some confusion on the Agency's meaning of the term "conflict of interest," the Agency is providing clarification on what it means by this term.

Conflict of interest—A situation in which the ability of a person or entity to act impartially would be questionable due to competing professional or personal interests. An example of conflict of interest occurs when the grantee's employees, board of directors, or the immediate family of either, have a legal or personal financial interest in the recipients receiving the benefits or services of the grant.

Mutually—owned business—An organization owned and governed by members who either are its consumers, producers, employees, or suppliers.

II. Award Information

Type of Award: Grant.

Fiscal Year Funds: FY 2010.

Approximate Total Funding: $7.924 million.

Approximate Number of Awards: 35

Approximate Average Award: $225,000.

Floor of Award Range: None.

Ceiling of Award Range: $225,000.

Anticipated Award Date: August 16, 2010.

Budget Period Length: 12 months.

Project Period Length: 12 months.

III. Eligibility Information

A. Eligible Applicants

Grants may be made to nonprofit corporations and accredited institutions of higher education. Grants may not be made to public bodies or to individuals.

B. Cost Sharing or Matching

The matching fund requirement is 25 percent of the total project cost (5 percent in the case of 1994 Institutions). Applicants must verify in their applications that all matching funds are available during the grant period. If an applicant is awarded a grant, additional verification documentation regarding the availability of matching funds may be required. All of the matching funds must be spent on eligible expenses during the grant period, and must be from eligible sources. Unless provided by other authorizing legislation, other Federal grant funds cannot be used as matching funds. However, matching funds may include loan proceeds from Federal sources. Matching funds must be spent in advance or as a pro-rata portion of grant funds being expended. All of the matching funds must be provided by either the applicant or a third party in the form of cash or in-kind contributions. The Center must be able to document and verify the number of hours worked and the value associated with the in-kind contribution. Due to the difficulty in distinguishing the responsibilities normally associated with board/advisory council membership versus those directly associated with specific Center projects, the Agency will no longer accept board/advisory council members' time as an eligible in-kind match contribution. However, in-kind contributions from board/advisory council members in the form of their travel, incidentals, etc. are acceptable if the Center has established written policies explaining how these costs are normally reimbursed, including rates, and an explanation of this policy is included in the application. Otherwise, the in-kind contributions will not be considered to be an eligible match and may cause the application to be determined ineligible for funding. In-kind contributions provided by individuals, businesses, or cooperatives which are being assisted by the Center can not be provided for the direct benefit of their own projects as USDA Rural Development considers this to be a conflict of interest or the appearance of a Conflict Of Interest.

C. Other Eligibility Requirements

Grant Period Eligibility: Applications should have a timeframe of no more

than 365 consecutive days with the time period beginning no earlier than October 1, 2010 and no later than January 3, 2011. Projects must be completed within the 1-year timeframe. The Agency may approve requests to extend the grant period for up to twelve months at the discretion of the Agency. However, should the grantee compete successfully for an RCDG grant during the subsequent grant cycle, the first grant must be closed before funds can be obligated for the subsequent grant.

Completeness Eligibility: Applications without sufficient information to determine eligibility and scoring will be considered ineligible. Applications that are non-responsive to this notice will be considered ineligible.

Activity Eligibility: Applications must propose the development or continuation of a cooperative development center concept or they will not be considered for funding. In addition, the following applications will not be considered for funding. Applications that:

i. Focus assistance on only one cooperative or mutually-owned business.

ii. Request more than the maximum grant amount.

iii. Propose ineligible costs that equal more than 10 percent of the total project(Applications with ineligible costs of 10 percent or less of total project costs that are selected for funding must remove all ineligible costs from the budget and replace them with eligible activities or reduce the amount of the grant award accordingly).

IV. Application and Submission Information

A. Address To Request Application Package

The application package for applying on paper for this funding opportunity can be obtained at *http://www.rurdev.usda.gov/rbs/coops/rcdg/rcdg.htm.* For electronic applications, applicants must visit *http://www.grants.gov* and follow the instructions.

B. Submission Dates and Times

Applicants may submit their applications to their State Rural Development Office for a preliminary review up to 45 days prior to the final application deadline published in this notice. The preliminary review will assess applicant and project eligibility, as well as completeness of the application in terms of presence of the required elements. Should the Agency identify missing or incomplete elements, the applicant will be notified and given an opportunity to submit the missing elements before the final deadline published in the **Federal Register**. Missing elements will not be accepted after the final application deadline. This preliminary review is an informal assessment of the application and not a final evaluation of the application. Findings of the preliminary review are courtesy only and are not binding on the Agency nor are they appealable. Applications must be submitted on paper or electronically.

Final paper applications must be postmarked and mailed, shipped, or sent overnight no later than August 9, 2010, to be eligible for FY 2010 grant funding. Applications postmarked, mailed, or shipped after August 9, 2010 will not be processed. Final electronic applications must be received by August 9, 2010, to be eligible for FY 2010 grant funding. If the application is submitted electronically, the applicant must follow the instructions given at *http://www.grants.gov.* Applicants are advised to visit the site well in advance of the application deadline if they plan to apply electronically to ensure they have obtained the proper authentication and have sufficient computer resources to complete the application.

C. Content and Form of Submission

An application guide may be viewed at *http://www.rurdev.usda.gov/rbs/coops/rcdg/rcdg.htm.* It is recommended that applicants use the template provided on the Web site. The template can be filled out electronically and printed out for submission with the required forms for paper submission or it can be filled out electronically and submitted as an attachment through *http://www.grants.gov.*

The submission must include all pages of the application. It is recommended that the application be in black and white, not color. Those evaluating the application will only receive black and white images.

The Agency will then screen all applications for eligibility to determine whether the application is sufficiently responsive to the requirements set forth in this notice to allow for an informed review. Information submitted as part of the application will be protected to the extent permitted by law. An application guide and forms are available online at *http://www.rurdev.usda.gov/rbs/coops/rcdg/rcdg.htm*

Applicants must complete and submit the following elements as part of the application package.

1. Form SF–424, "Application for Federal Assistance," must be completed, signed, and must include a DUNS number. The DUNS number is a nine-digit identification number which uniquely identifies business entities. There is no charge. To obtain a DUNS number, access *http://www.dnb.com/us/* or call 866–705–5711. For more information, see the RCDG web site at *http://www.rurdev.usda.gov/rbs/coops/rcdg/rcdg.htm* or contact the applicant's USDA Rural Development State Office. Contact information for State Offices can be found at *http://www.rurdev.usda.gov/rbs/coops/rcdg/Contacts.htm.*

2. Form SF–424A, "Budget Information—Non-Construction Programs," must be completed and signed.

3. Form SF–424B, "Assurances—Non-Construction Programs," must be completed and signed.

4. Survey on Ensuring Equal Opportunity for Applicants. The Agency is required to make this survey available to all nonprofit applicants. Submission of this form is voluntary.

5. Title Page. To include the title of the project as well as any other relevant identifying information.

6. Table of Contents. To facilitate review, include page numbers for each component of the application.

7. Executive Summary. A summary of the proposal, not to exceed two pages, must briefly describe the Center, including project goals and tasks to be accomplished, the amount requested, how the work will be performed (e.g., Center staff, consultants, or contractors) and the percentage of work that will be performed among the parties.

8. Eligibility Discussion. The applicant must describe, not to exceed two pages, how it meets the applicant, matching, grant period and activity eligibility requirements.

9. Proposal Narrative. The proposal narrative is limited to a total of 40 pages.

i. Project Title. The title of the proposed project must be brief, not to exceed 75 characters, yet describe the essentials of the project. If a title page was included under number 5 above, it is not necessary to include an additional title page under this section.

ii. Information Sheet. A separate one-page information sheet listing each of the evaluation criteria referenced in this funding announcement, followed by the page numbers of all relevant material and documentation contained in the proposal that address or support the criteria. If the evaluation criteria are listed on the Table of Contents and specifically and individually addressed in narrative form, then it is not necessary to include an information sheet under this section.

iii. Goals of the Project. The applicant must include the following statements in this section of the narrative to demonstrate that the Center is following these statutory requirements:

1. A statement that substantiates that the Center will effectively serve rural areas in the United States;

2. A statement that the primary objective of the Center will be to improve the economic condition of rural areas through cooperative development;

3. A description of the contributions that the proposed activities are likely to make to the improvement of the economic conditions of the rural areas for which the Center will provide services. Expected economic impacts should be tied to tasks included in the work plan and budget; and

4. A statement that the Center, in carrying out its activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal government, and State and local governments.

iv. Performance Measures. The Agency has established annual performance evaluation measures to evaluate the RCDG program. Applicants must provide estimates on the following performance evaluation measures.

- Number of groups who are not legal entities assisted.
- Number of businesses that are not cooperatives assisted.
- Number of cooperatives assisted.
- Number of businesses incorporated that are not cooperatives.
- Number of cooperatives incorporated.
- Total number of jobs created as a result of assistance (Note: where not relevant—housing, for example—the applicant should suggest a more relevant performance measure).
- Total number of jobs saved as a result of assistance (Note: where not appropriate—housing, for example—the applicant should suggest a more appropriate performance measure).
- Number of jobs created for the Center as a result of RCDG funding.
- Number of jobs saved for the Center as a result of RCDG funding.

If selected for funding, the applicant will be required to report actual numbers for these performance elements on a semi-annual basis and in the final performance report. Additional information on post-award requirements can be found in Section VI. Applicants must also suggest additional performance elements in the event the proposal receives grant funding. These additional criteria should be specific, measurable performance elements, but are not binding on USDA.

v. Undertakings. The applicant must describe in the application how it will undertake to do each of the following:

1. Take all practicable steps to develop continuing sources of financial support for the Center, particularly from sources in the private sectors;

2. Make arrangements for the Center's activities to be monitored and evaluated; and

3. Provide an accounting for the money received by the grantee in accordance with 7 CFR part 4284, subpart F.

vi. Work Plan and Budget (should be presented under proposal evaluation criterion number 6, utilizing the specific requirements in section V.A.6).

vii. Delivery of Technical Assistance and Other Services Delivery of technical assistance in rural areas to promote and assist the development of cooperatively and mutually-owned businesses should be described under proposal evaluation criterion number 2, utilizing the specific requirements under section V.A.2.

viii. Qualifications of Personnel (should be presented under proposal evaluation criterion number 7, utilizing the specific requirements under section V.A.7.).

ix. Local Support (should be described under proposal evaluation criterion number 8, utilizing the requirements in section V.A.8.).

x. Future Support (should be described under proposal evaluation criterion number 9, utilizing the specific requirements under V.A.9.).

xi. Proposal Evaluation Criteria. Each of the evaluation criteria referenced in this funding announcement must be specifically and individually addressed in narrative form. Applications that do not address all of the proposal evaluation criteria will be considered ineligible. See Section V.A. for a description of the Proposal Evaluation Criteria.

10. Certification of Judgment Owed to the United States. Applicants must certify that there are no current outstanding Federal judgments against them. No grant funds shall be used to pay a judgment obtained by the United States other than judgment in tax court. It is suggested that applicants use the following language for the certification. "*[INSERT NAME OF APPLICANT] certifies that the United States has not obtained an unsatisfied judgment against it and will not use grant funds to pay any judgments obtained by the United States.*" A separate signature is not required.

11. Certification of Matching Funds. Applicants must certify that matching funds will be available at the same time grant funds are anticipated to be spent and that expenditures of matching funds are pro-rated, such that for every dollar of the total project cost, not less than the required amount of matching funds will have been expended prior to submitting the request for reimbursement. Please note that this certification is a separate requirement from the Verification of Matching Funds requirement. To satisfy the Certification requirement, applicants should include this statement for this section: "*[INSERT NAME OF APPLICANT] certifies that matching funds will be available at the same time grant funds are anticipated to be spent and that expenditures of matching funds shall be pro-rated, such that * * * and that matching funds will be spent in advance of grant funding, such that for every dollar of the total project cost, at least 25 cents (5 cents for 1994 Institutions) of matching funds will have been expended prior to submitting the request for reimbursement.*" A separate signature is not required. In the case of fund advances, the applicant will certify that for every dollar of funds advanced, at least 25 cents (5 cents for 1994 Institutions) of matching funds will be expended.

12. Verification of Matching Funds. Applicants must provide documentation of all proposed matching funds, both cash and in-kind. Matching funds must be used for eligible purposes and expenditures for this grant program. The documentation must be included in Appendix A of the application and will not count towards the 40-page limitation. Template letters for each type of matching funds are available at *http://www.rurdev.usda.gov/rbs/coops/rcdg/verifymatchsample.doc.*

If matching funds are to be provided in cash, the following requirements must be met at the time of application. Additional documentation may be required if a grant is awarded.

Applicant: The application must include a statement verifying (1) the amount of the cash and (2) the source of the cash. If the applicant is paying for goods and/or services as part of the matching funds contribution, the expenditure is considered a cash match, and should be verified as such.

Third-party: The application must include a signed letter from the third party verifying (1) how much cash will be donated and (2) that it will be available corresponding to the proposed grant period or donated on a specific date within the grant period. Cash matching contributions from third-parties are to be used for Center operations and cannot be used to provide services which directly benefit

the third-party contributor. Contributors of cash matching contributions may not limit or direct how or where the Center may use the contributions.

If matching funds are to be provided by an in-kind donation, the following requirements must be met.

Applicant: The application must include a signed letter from the applicant or its authorized representative verifying (1) the nature of the goods and/or services to be donated and how they will be used, (2) when the goods and/or services will be donated (*i.e.,* corresponding to the proposed grant period or to specific dates within the grant period), and (3) the value of the goods and/or services.

Third-Party: The application must include a signed letter from the third party verifying (1) the nature of the goods and/or services to be donated and how they will be used, (2) when the goods and/or services will be donated (*i.e.,* corresponding to the proposed grant period or to specific dates within the grant period when matching contributions will be made available), and (3) the value of the goods and/or services. It should be noted that non-profit or other organizations contributing the services of affiliated volunteers must follow the third-party verification requirement above, for each individual volunteer.

Applicants should note the following:

- Only goods or services for which no expenditure is made can be considered in-kind.
- In-kind contributions that are over-valued will not be accepted. The valuation process for in-kind funds does not need to be included in the application, but the applicant must be able to demonstrate how the valuation was derived at the time of notification of tentative selection for the grant award, or the grant award may be withdrawn or the amount of the grant may be reduced. Matching funds donated outside the proposed time period of the grant will not be accepted.
- Examples of unacceptable matching funds are in-kind contributions from individuals, businesses, or cooperatives being assisted by the Center to benefit their own project; donations of fixed equipment and buildings; and costs related to the preparation of the RCDG application package.

Expected program income may not be used to fulfill the matching funds requirement at the time of application. However, if there are contracts to provide services in place at the time of application, they may be treated as cash match. If program income is earned during the time period of the grant, it is subject to applicable requirements of 7 CFR part 3015, subpart F and 7 CFR part 3019.24 and any provisions in the Grant Agreement.

D. Submission Dates and Times

Application Deadline Date: August 9, 2010.

Explanation of Deadlines: Paper applications must be postmarked by the deadline date (see Section IV.G for the address). Electronic applications must be received by *http://www.grants.gov* by the deadline date. If the application does not meet the deadline above, it will not be considered for funding. The applicant will be notified if the application does not meet the submission requirements. The applicant will also be notified by mail or by e-mail if the application is received on time.

E. Intergovernmental Review of Applications

Executive Order (EO) 12372, Intergovernmental review of Federal programs, applies to this program. This EO requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments. Many states have established a Single Point of Contact (SPOC) to facilitate this consultation. For a list of states that maintain an SPOC, please see the White House Web site: *http://www.whitehouse.gov/omb/grants/spoc.html*. If an applicant's state has an SPOC, the applicant may submit a copy of the application directly for review. Any comments obtained through the SPOC must be provided to USDA Rural Development for consideration as part of the application. If the applicant's state has not established an SPOC, or the applicant does not want to submit a copy of the application, USDA Rural Development will submit the application to the SPOC or other appropriate agency or agencies.

Applicants are also encouraged to contact the USDA Rural Development State Office for assistance and questions on this process. Contact information for USDA Rural Development State Offices can be viewed at *http://www.rurdev.usda.gov/rbs/coops/rcdg/Contacts.htm*.

F. Funding Restrictions

Funding restrictions apply to both grant funds and matching funds. Grant funds may be used to pay up to 75 percent (95 percent where the grantee is a 1994 Institution) of the total project cost.

1. Grant funds and matching funds may be used for, but are not limited to, providing the following to individuals, small businesses, cooperative and mutually-owned businesses and other similar entities in rural areas served by the Center (7 U.S.C. 1932(e)(5)and 7 U.S.C. 1932(e)(4)(c)):

i. Applied research, feasibility, environmental and other studies that may be useful for the purpose of cooperative development.

ii. Collection, interpretation and dissemination of principles, facts, technical knowledge, or other information for the purpose of cooperative development.

iii. Training and instruction for the purpose of cooperative development.

iv. Loans and grants for the purpose of cooperative development in accordance with this notice and applicable regulations.

v. Technical assistance, research services and advisory services for the purpose of cooperative development.

vi. Programs providing for the coordination of services and sharing of information among the Centers (7 U.S.C. 1932(e)(4)(C)(vi).

2. No funds made available under this solicitation shall be used for any of the following activities:

i. To duplicate current services or replace or substitute support previously provided. If the current service is inadequate, however, grant funds may be used to expand the level of effort or services beyond that which is currently being provided;

ii. To pay costs of preparing the application package for funding under this program;

iii. To pay costs of the project incurred prior to the date of grant approval;

iv. To fund political or lobbying activities;

v. To pay for assistance to any private business enterprise that does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence;

vi. To pay any judgment or debt owed to the United States;

vii. To plan, repair, rehabilitate, acquire, or construct a building or facility, including a processing facility;

viii. To purchase, rent, or install fixed equipment, including laboratory equipment or processing machinery;

ix. To pay for the repair of privately owned vehicles;

x. To pay for the operating costs of any recipient entity.

xi. To fund research and development;

xii. To pay costs of the project where a conflict of interest exists; or

xiii. To fund any activities prohibited by 7 CFR parts 3015 or 3019.

G. Other Submission Requirements

A paper application for a grant must be submitted to Cooperative Programs, Attn: RCDG Program, 1400 Independence Avenue, SW., Mail Stop 3250, Room 4016–South, Washington, DC 20250–3250. The phone number that should be used for courier delivery is (202) 720–8460. Electronically submitted applications must apply using the following Internet address: *http://www.grants.gov*. Applications may not be submitted by electronic mail, facsimile, or by hand-delivery. Each application submission must contain all required documents.

V. Application Review Information

A. Proposal Evaluation Criteria

All eligible and complete applications will be evaluated based on the following criteria. Evaluators will base scores only on the information provided or cross-referenced by page number in each individual evaluation criterion. The maximum amount of points available is 100. **Note:** Newly established or proposed Centers that do not yet have a track record on which to evaluate the following criteria should refer to the expertise and track records of staff or consultants expected to perform tasks related to the respective criteria. Proposed or newly established Centers must be organized well-enough at time of application to address its capabilities for meeting these criteria.

1. *Administrative capabilities in support of Center activities.* (maximum score of 10 points) The Agency will evaluate the application to determine whether the applicant demonstrates a proven track record in carrying out activities in support of development assistance to cooperatively and mutually owned businesses. At a minimum, applicants must discuss the following capabilities:

i. Financial systems and audit controls;

ii. Personnel and program administration performance measures;

iii. Clear written rules of governance; and

iv. Experience administering Federal grant funding, including but not limited to past RCDG's.

Applicants that discuss the Center's administrative capabilities and track record, versus those of umbrella or supporting institutions, such as universities or parent organizations, will score higher.

2. *Technical assistance and other services.* (maximum score of 15 points) The Agency will evaluate the applicant's demonstrated expertise in providing technical assistance and accomplishing effective outcomes in rural areas to promote and assist the development of cooperatively and mutually-owned businesses. The applicant must discuss:

i. Their potential for delivering effective technical assistance:

ii. The types of assistance provided:

iii. The expected effects of that assistance;

iv. The sustainability of organizations receiving the assistance; and

v. The transferability of its cooperative development strategies and focus to other areas of the U.S.

Applicants that evidence effective delivery systems for cooperative development will score higher. Applicants that discuss the demonstrated expertise specific to the Center (as opposed to umbrella or supporting institutions such as universities or parent organizations) will score higher.

3. *Economic development.* (maximum score of 15 points) The Agency will evaluate the applicant's demonstrated ability to facilitate:

i. Establishment of cooperatives or mutually-owned businesses,

ii. New cooperative approaches, and

iii. Retention of businesses, generation of employment opportunities or other factors, as applicable, that will otherwise improve the economic conditions of rural areas.

Applicants that provide statistics for historical and potential development and identify their role in economic development outcomes will score higher.

4. *Networking and regional focus.* (maximum score of 10 points) The Agency will evaluate the applicant's demonstrated commitment to:

i. Networking with other cooperative development centers, and other organizations involved in rural economic development efforts, as well as,

ii. Developing multi-organization and multi-state approaches to addressing the economic development and cooperative needs of rural areas.

New or proposed Centers are expected to be developed enough to address this criteria.

5. *Commitment.* (maximum score of 10 points) The Agency will evaluate the applicant's commitment to providing technical assistance and other services to under-served and economically distressed areas in rural areas of the United States. Applicants that define and describe the underserved and economically distressed areas within their service area, provide statistics, and identify projects within or affecting these areas, as appropriate, will score higher.

6. *Work Plan/Budget.* (maximum score of 10 points) The work plan will be reviewed for detailed actions and an accompanying timetable for implementing the proposal. Clear, logical, realistic and efficient plans will result in a higher score. Budgets will be reviewed for completeness and the quality of non-Federal funding commitments. Applicants must discuss:

i. Specific tasks (whether it be by type of service or specific project) to be completed using grant and matching funds;

ii. How customers will be identified;

iii. Key personnel; and

iv. The evaluation methods to be used to determine the success of specific tasks and overall objectives of Center operations.

The budget must present a breakdown of the estimated costs associated with cooperative development activities as well as the operation of the Center and allocate these costs to each of the tasks to be undertaken. Matching funds as well as grant funds must be accounted for in the budget.

7. *Qualifications of those Performing the Tasks.* (maximum score of 10 points) The Agency will evaluate the application to determine if the personnel expected to perform key tasks have a track record of:

i. Positive solutions for complex cooperative development and/or marketing problems; or

ii. A successful record of conducting accurate feasibility studies, business plans, marketing analysis, or other activities relevant to applicant's success as determined by the tasks identified in the applicants work plan; and

iii. Whether the personnel expected to perform the tasks are full/part-time employees of the applicant or are contract personnel. Applicants that evidence commitment/availability of qualified personnel expected to perform the tasks will score higher.

8. *Local support.* (maximum score of 10 points) The Agency will evaluate applications for previous and/or expected local support for the applicant, and plans for coordinating with other developmental organizations in the proposed service area or with state and local government institutions. Applicants that evidence strong support from potential beneficiaries and formal evidence of intent to coordinate with other developmental organizations will score higher. Support should be discussed directly within the response to this criterion. The applicant may also submit a maximum of 10 letters of support or intent to coordinate with the application. These letters should be included in Appendix B of the

application and will not count against the 40-page limit for the narrative.

9. *Future support.* (maximum score of 10 points) The Agency will evaluate the applicant's vision for funding its operations in future years. Applicants should document:

i. New and existing funding sources that support its goals;

ii. Alternative funding sources that reduce reliance on Federal, State, and local grants; and

iii. The use of in-house personnel for providing services versus contracting out for that expertise.

Applications that evidence vision and likelihood of long-term sustainability with diversification of funding sources and building in-house technical assistance capacity will score higher.

10. *Special Emphasis.* (maximum score 10 points) The Agency will evaluate the applicant's demonstrated ability to implement projects designed to help cooperatives and mutually-owned businesses to create wealth in rural communities so that they are self-sustaining, repopulating, and thriving economically, using the following key USDA strategies:

vi. Local and regional food systems as a strategy for encouraging production agriculture and related industries in new wealth creation;

vii. Renewable energy generation, energy conservation, and/or climate change adaptation or mitigation as strategies for quality job creation;

viii. Use of broadband and other critical infrastructure as a strategy to facilitate local entrepreneurship and expansion of market opportunities for small businesses;

ix. Access to capital in rural areas as a strategy to ensure continuous business development and job creation/retention; and

x. Innovative utilization of natural resources as a strategy to expand business opportunities.

B. Review and Selection Process

The Agency will screen all of the proposals to determine whether the application is eligible and sufficiently responsive to the requirements set forth in this notice to allow for an informed review.

The Agency will evaluate applications using a panel of qualified reviewers who will score the applications in accordance with the point allocation specified in this notice. Applications will be submitted to the Administrator in rank order, together with funding level recommendations.

C. Anticipated Announcement and Award Dates

Award Date: The announcement of award selections is expected to occur on or about August 16, 2010.

VI. Award Administration Information

A. Award Notices

Successful applicants will receive a notification of tentative selection for funding from USDA Rural Development. Applicants must comply with all applicable statutes and regulations before the grant award will be approved. Unsuccessful applicants will receive notification by mail, including appeal rights, as appropriate. Consolidated comments for reviewed applications will be made available.

B. Administrative and National Policy Requirements

7 CFR parts 3015, 3019, and 4284 are applicable to this program. To view these regulations, please see the following Internet address: *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html.*

The following additional requirements apply to grantees selected for this program:

- Grant Agreement.
- Letter of Conditions.
- Form RD 1940–1, "Request for Obligation of Funds."
- Form RD 1942–46, "Letter of Intent to Meet Conditions."
- Form AD–1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions."
- Form AD–1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions."
- Form AD–1049, "Certification Regarding Drug-Free Workplace Requirements (Grants)."
- Form RD 400–4, "Assurance Agreement."
- RD Instruction 1940–Q, Exhibit A–1, "Certification for Contracts, Grants and Loans," including Standard Form (SF) LLL, "Disclosure of Lobbying Activities."

Compliance with the National Environmental Policy Act

This Notice of Funds Availability (NOFA) has been reviwed in accordance with 7 CFR Part 1940, subpart G, "Environmental Program." Rural Development has determined that an Environmental Impact Statement is not required because the issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial programs is categorically excluded in the Agency's NEPA regulation found at 7 CFR 1940.310(e) of Subpart G, Environmental Program. Thus, in accordance with the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C 4321–4347), Rural Development has determined that this NOFA does not constitute a major Federal action significantly affecting the quality of the human environment. Furthermore, individual awards under this NOFA are hereby classified ad Categorical Exclusions according to 1940.310(e), the award of financial assistance for planning purposes, management and feasibility studies, or environmental impact analyses, which do not require any additional documentation.

Additional information on these requirements can be found at *http://www.rurdev.usda.gov/rbs/coops/rcdg/rcdg.htm.*

Reporting Requirements: Grantees must provide USDA Rural Development with an original or electronic copy that includes all required signatures of the following reports. The reports should be submitted to the Agency contact listed on the Grant Agreement and Letter of Conditions. Failure to submit satisfactory reports on time may result in suspension or termination of the grant.

1. Form SF–425. A "Federal Financial Report," listing expenditures according to agreed upon budget categories, on a semi-annual basis. Reporting periods end each March 31 and September 30. Reports are due 30 days after the reporting period ends.

2. Semi-annual performance reports that compare accomplishments to the objectives stated in the proposal. Identify all tasks completed to date and provide documentation supporting the reported results. If the original schedule provided in the work plan is not being met, the report should discuss the problems or delays that may affect completion of the project. Objectives for the next reporting period should be listed. Compliance with any special conditions on the use of award funds should be discussed. The report should also include a summary at the end of the report with the following elements to assist in documenting the annual performance goals of the RCDG program for Congress.

- Number of groups who are not legal entities assisted.
- Number of businesses that are not cooperatives assisted.
- Number of cooperatives assisted.
- Number of businesses incorporated that are not cooperatives.

• Number of cooperatives incorporated.

• Total number of jobs created as a result of assistance (Note: where not relevant-housing, for example—the applicant should suggest a more relevant performance measure).

• Total number of jobs saved as a result of assistance (Note: where not relevant-housing, for example—the applicant should suggest a more relevant performance measure).

• Number of jobs created for the Center as a result of RCDG funding.

• Number of jobs saved for the Center as a result of RCDG funding.

• Additional performance measures identified by the grantee in Section 4(iv) of the application and accepted as binding in the Grant Agreement.

Need something for any additional performance measures suggested by applicant and adopted by USDA.

Reports are due as provided in paragraph 1 of this section. Supporting documentation must also be submitted for completed tasks. The supporting documentation for completed tasks includes, but is not limited to: Feasibility studies, marketing plans, business plans, publication quality success stories, applied research reports, copies of surveys conducted, articles of incorporation and bylaws and an accounting of how outreach, training, and other funds were expended.

3. Final project performance reports. These reports shall include all of the requirements of the semi-annual performance reports and responses to the following:

i. What have been the most challenging or unexpected aspects of this program?

ii. What advice would the grantee give to other organizations planning a similar program? These should include strengths and limitations of the program. If the grantee had the opportunity, what would they have done differently?

iii. If an innovative approach was used successfully, the grantee should describe their program in detail so that other organizations might consider replication in their areas.

The final performance report is due within 90 days of the completion of the project.

VII. Agency Contacts

For general questions about this announcement and for program technical assistance, applicants should contact their USDA Rural Development State Office at *http://www.rurdev.usda.gov/rbs/coops/rcdg/Contacts.htm.* If an applicant is unable to contact their State Office, please contact a nearby State Office or the USDA Rural Development National Office at 1400 Independence Avenue, SW., Mail Stop 3250, Room. 4016–South, Washington, DC 20250–3250, telephone: (202) 720–8460, e-mail: *cpgrants@wdc.usda.gov.*

VIII. Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410 or call (866) 632–9992 (voice) or (202) 401–0216 (TDD). USDA is an equal opportunity provider and employer.

Dated: June 17, 2010.

Judith A. Canales,

Administrator, Rural Business Cooperative Service.

[FR Doc. 2010–15428 Filed 6–24–10; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

Announcement of Changes to the Membership of the Performance Review Board

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of Performance Review Board Membership.

SUMMARY: The regulations at 5 CFR 430.310 require agencies to publish notice of Performance Review Board appointees in the **Federal Register** before their service begins. In accordance with those regulations, this notice announces changes to the membership of the International Trade Administration's Performance Review Board.

DATES: Effective Date: The changes made to the Performance Review Board is effective June 25, 2010.

FOR FURTHER INFORMATION CONTACT: Ronda L. Holbrook, Department of Commerce Human Resources Operations Center (DOCHROC), Office of Executive Resources Operations, 14th and Constitution Avenue, NW., Room C–200, Washington, DC 20230, at (202) 482–5243.

SUPPLEMENTARY INFORMATION: On October 6, 2009, the International Trade Administration (ITA) published its list of Performance Review Board appointees pursuant to the regulations at 5 CFR 430.310 (74 FR 51261). The purpose of the Performance Review Board is to review and make recommendations to the appointing authority on performance management issues such as appraisals, bonuses, pay level increases, and Presidential Rank Awards for members of the Senior Executive Service. ITA publishes this notice to announce changes to the Performance Review Board's membership. As of June 25, 2010, ITA removes Mr. David M. Robinson from the Board because he is no longer at ITA and appoints Ms. Rochelle J. Lipsitz for a two-year term. ITA also appoints Mr. Walter M. Bastian to serve as Chair of the Performance Review Board, and updates the title for Ms. Patricia M. Sefcik.

For the public's convenience, an updated membership list of the Performance Review Board is provided below.

1. Walter M. Bastian, Deputy Assistant Secretary for Western Hemisphere, ITA (Chair).

2. Patricia A. Sefcik, Chief Financial Officer and Director of Administration, ITA.

3. Rochelle J. Lipsitz, Deputy Director General of the U.S. and Foreign Commercial Service, ITA (new).

4. Edward C. Yang, Senior Director, China Non-Market Economy Compliance Unit, ITA.

5. Joel Secundy, Deputy Assistant Secretary for Services, ITA.

6. Lisa A. Casias, Director for Financial Management, OS.

Dated: June 18, 2010.

Susan Boggs,

Director, Office of Staffing, Recruitment and Classification, Department of Commerce Human Resources Operations Center.

[FR Doc. 2010–15432 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–P–2010–0049]

Clarification on the Procedure for Seeking Review of a Finding of a Substantial New Question of Patentability in *Ex Parte* Reexamination Proceedings

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is clarifying the procedure for seeking review of a determination that a substantial new question of patentability (SNQ) has been raised in an *ex parte* reexamination proceeding. This notice clarifies that while issues related to a SNQ determination are procedural, the Chief Judge of the Board of Patent Appeals and Interferences (BPAI) has been delegated the authority to review issues related to the examiner's determination that a reference raises a SNQ in an *ex parte* reexamination proceeding. The Chief Judge of the BPAI may further delegate that authority to the panel of Administrative Patent Judges who are deciding the appeal in an *ex parte* reexamination proceeding. This clarification of procedure will facilitate more efficient resolution of SNQ issues.

DATES: *Effective Date:* June 25, 2010. The procedure set forth in this notice applies to *ex parte* reexamination proceedings in which an appeal to the BPAI is decided on or after June 25, 2010. The procedure set forth in this notice does not apply to *inter partes* reexamination proceedings.

FOR FURTHER INFORMATION CONTACT: James T. Moore, Vice Chief Administrative Patent Judge, Board of Patent Appeals and Interferences, by telephone at (571) 272–9797 or by electronic mail at *JamesT.Moore@USPTO.gov.*

SUPPLEMENTARY INFORMATION: The USPTO will order a reexamination of a patent only if it determines that a SNQ affecting a claim of the patent has been raised. *See* 35 U.S.C. 304. A determination by the USPTO that no SNQ has been raised is "final and nonappealable." *See* 35 U.S.C. 303(c). However, a determination by the USPTO that a reference raises a SNQ is not subject to judicial review until a final agency decision has been entered in the *ex parte* reexamination proceeding. *See Heinl* v. *Godici,* 143 F. Supp. 2d 593, 597 n.9 (E.D. Va. 2001) ("The decision to grant reexamination of a patent only begins an administrative process and, as such, is * * * not [a] final agency action subject to judicial review * * * ."); *see also Patlex Corp.* v. *Quigg,* 680 F. Supp. 33, 36 (D.D.C. 1988) ("[T]he legislative scheme leaves the [Director's 35 U.S.C.] section 303 determination entirely to his discretion and not subject to judicial review."). The USPTO is clarifying that the Director of the USPTO has delegated to the Chief Judge of the BPAI the authority to review issues related to the examiner's determination that a reference raises a SNQ in an *ex parte* reexamination proceeding. The Chief Judge of the BPAI may further delegate this SNQ review authority to the panel of Administrative Patent Judges who are deciding the appeal in the *ex parte* reexamination proceeding.

Request for Reconsideration of Examiner's Finding of Substantial New Question

A patent owner challenging the correctness of the decision to grant an order for *ex parte* reexamination on the basis that there is no SNQ may request reconsideration of the examiner's SNQ determination.[1] The patent owner may present this challenge prior to the issuance of an Office action in the *ex parte* reexamination proceeding by filing a statement under 37 CFR 1.530 discussing the SNQ raised in the reexamination order for the examiner's consideration. *See* 35 U.S.C. 304. When the examiner makes a rejection based in whole or in part on a reference (patent or printed publication) in an Office action, the patent owner may present a challenge to the examiner's SNQ determination by requesting reconsideration of the examiner's determination that the reference raises a SNQ and presenting appropriate arguments in the response to the Office action. *See* 37 CFR 1.111(b) (the patent owner's reply to an Office action must point out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the Office action). By presenting arguments regarding the SNQ to the examiner in the early stages of the proceeding, the patent owner helps the USPTO to resolve the issues quickly. For example, if the patent owner timely files a statement or reply, and the examiner agrees with the patent owner that no SNQ has been raised in the *ex parte* reexamination proceeding, then the proceeding will be terminated or the reexamination order will be vacated (if appropriate). However, if the examiner determines that the SNQ is proper, further review can be obtained by exhausting the patent owner's rights through the reexamination proceeding and ultimately seeking review before the BPAI along with an appeal of any rejections.

BPAI Review of Examiner's Finding of Substantial New Question

The patent owner may seek review on the examiner's SNQ determination before the BPAI along with any appeal of the examiner's rejections. A patent owner must include the SNQ issue and the appropriate arguments in its appeal brief to the BPAI.

In order to preserve the right to have the BPAI review of the SNQ issue, a patent owner must first request reconsideration of the SNQ issue by the examiner. Accordingly, for *ex parte* reexamination proceedings ordered on or after June 25, 2010, the patent owner may seek a final agency decision from the BPAI on the SNQ issue only if the patent owner first requests reconsideration before the examiner (*e.g.,* in a patent owner's statement under 37 CFR 1.530 or in a patent owner's response under 37 CFR 1.111) and then seeks review of the examiner's SNQ determination before the BPAI. In its appeal brief, the patent owner is encouraged to clearly present the issue and arguments regarding the examiner's SNQ determination under a separate heading and identify the communication in which the patent owner first requested reconsideration before the examiner.

The USPTO recognizes that, without the benefit of the clarification in this notice, some patent owners who wish to seek a final agency decision on the determination of a SNQ may have failed to request reconsideration from the examiner. Thus, for *ex parte* reexamination proceedings ordered prior to June 25, 2010, if the patent owner presents the SNQ issue in its appeal brief, the BPAI panel will review the procedural SNQ issue along with its review of any rejections in an appeal and will enter a final agency decision accordingly.

The final decision by the BPAI panel in an *ex parte* reexamination proceeding

[1] Separate from the BPAI's consideration of the SNQ issue, a patent owner may file a petition under 37 CFR 1.181(a)(3) to vacate an *ex parte* reexamination order as "*ultra vires*." Such petitions will be granted only in the extremely rare situation where the USPTO acted in "brazen defiance" of its statutory authorization in granting the order for *ex parte* reexamination. *See Heinl,* 143 F. Supp. 2d at 601–02. These types of petitions to vacate an *ex parte* reexamination order are not decided by the BPAI, but continue to be delegated to the Commissioner for Patents and are currently decided by the Director of Central Reexamination Unit (CRU).

may include: (1) Its review of the procedural SNQ issue in a separate section, and (2) its review of the merits of the rejections. *See, e.g., In re Searles,* 422 F.2d 431, 434–35 (C.C.P.A. 1970) (holding certain procedural matters that are "determinative of the rejection" are properly appealable to the Board); *see also In re Hengehold,* 440 F.2d 1395, 1404 (C.C.P.A. 1971) ("[T]he kind of adverse decisions of examiners which are reviewable by the board must be those which relate, at least indirectly, to matters involving the rejection of the claims."); *cf.* 37 CFR 41.121 (providing both "substantive" motions and "miscellaneous"—*i.e.,* procedural—motions, which may be decided together in a single decision).

The patent owner may file a single request for rehearing under 37 CFR 41.52 for both the decision on the SNQ issue and the merits decision on the examiner's rejections, resulting in a single final decision for purposes of judicial review. Judicial review of the BPAI's final decision issued pursuant to 35 U.S.C. 134, which will incorporate the decision on the finding of a SNQ, is directly to the United States Court of Appeals for the Federal Circuit under 35 U.S.C. 141. *See In re Hiniker Co.,* 150 F.3d 1362, 1367 (Fed. Cir. 1998) ("With direct review by this court of the Board's reexamination decisions, a patentee can be certain that it cannot be subjected to harassing duplicative examination."); *see also Heinl,* 143 F. Supp. 2d at 597–98.

Although this is an important issue, an appeal containing a request for reconsideration of the examiner's SNQ determination is not widespread. There were three ex parte reexamination appeals docketed in Fiscal Year 2008, only one in Fiscal Year 2009 and one so far this year.

The procedure set forth in this notice does not apply to *inter partes* reexamination proceedings. A determination by the USPTO in an *inter partes* reexamination either that no SNQ has been raised or that a reference raises a SNQ is final and non-appealable. *See* 35 U.S.C. 312(c).

Appropriate sections of the MPEP will be revised in accordance with this notice in due course.

Dated: June 18, 2010.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2010–15468 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Maine System, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Avenue., NW., Washington, DC.

Docket Number: 10–010.
Applicant: University of Maine System, St. Bangor, ME 04401.
Instrument: Live Color Cathodoluminescence detector accessory for Scanning Electron Microscope.
Manufacturer: Gatan, UK.
Intended Use: See notice at 75 FR 29974, May 28, 2010.

Docket Number: 10–011.
Applicant: Washington University in St. Louis, St. Louis, MO.
Instrument: Electron Microscope.
Manufacturer: Japanese Electron–Optics, Limited (JEOL), Japan.
Intended Use: See notice at 75 FR 29974, May 28, 2010.

Docket Number: 10–012.
Applicant: California Institute of Technology, Pasadena, CA 91125.
Instrument: Electron Microscope.
Manufacturer: FEI Company, Czech Republic.
Intended Use: See notice at 75 FR 29974, May 28, 2010.

Docket Number: 10–013.
Applicant: Howard Hughes Medical Institute, Chevy Chase, MD 20815.
Instrument: Electron Microscope.
Manufacturer: FEI Company, Czech Republic.
Intended Use: See notice at 75 FR 29974, May 28, 2010.

Docket Number: 10–014.
Applicant: Howard Hughes Medical Institute, Chevy Chase, MD 20815.
Instrument: Electron Microscope.
Manufacturer: FEI Company, Czech Republic.
Intended Use: See notice at 75 FR 29974, May 28, 2010.

Docket Number: 10–016.
Applicant: United States Geological Survey, Denver, CO 80225.
Instrument: Electron Microscope.
Manufacturer: FEI Company, Czech Republic.
Intended Use: See notice at 75 FR 29974, May 28, 2010.

Docket Number: 10–017.
Applicant: University of Massachusetts Medical School, Worcester, MA 01655.
Instrument: Electron Microscope.
Manufacturer: FEI Company, Czech Republic.
Intended Use: See notice at 75 FR 29974.

Docket Number: 10–018.
Applicant: Texas Tech University, Lubbock, TX 79409–1021.
Instrument: Electron Microscope.
Manufacturer: Japanese Electron–Optics, Limited, (JEOL), Japan.
Intended Use: See notice at 75 FR 29974, May 28, 2010.

Docket Number: 10–020.
Applicant: Howard Hughes Medical Institute, Chevy Chase, MD 20815.
Instrument: Electron Microscope.
Manufacturer: FEI Company, Czech Republic.
Intended Use: See notice at 75 FR 29974, May 28, 2010.

Comments: None received.
Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.
Reasons: Each foreign instrument is an electron microscope or accessory thereto and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope or accessories thereto which were being manufactured in the United States at the time of order of each instrument.

Dated: June 21, 2010.

Christopher Cassel,

Director, Subsidies Enforcement Office, Import Administration.

[FR Doc. 2010–15498 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Establishment of the United States-Turkey Business Council and Request for Applicants for Appointment to the United States Section

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In December 2009, the Governments of the United States and

Turkey agreed to establish a U.S.-Turkey Business Council. This notice announces the opportunity for appointment as private sector members to the U.S. Section of the Council.

DATES: Applications should be received no later than July 22, 2010.

ADDRESSES: Please send applications to Kristin Najdi, Senior International Trade Specialist, Office of Europe, U.S. Department of Commerce, either by e-mail at *Kristin.Najdi@trade.gov* or by mail to U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room 3319, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Kristin Najdi, Senior International Trade Specialist, Office of Europe, U.S. Department of Commerce, telephone: 202–482–4915. Additional information, including the Terms of Reference, can be found at *http://www.trade.gov/mac/terms-of-reference-us-turkey-business-council.asp*.

SUPPLEMENTARY INFORMATION: The Under Secretary for International Trade of the U.S. Department of Commerce and the Undersecretary for Foreign Trade of the Undersecretariat of the Prime Ministry for Foreign Trade of Turkey will co-chair the U.S.-Turkey Business Council, pursuant to the Terms of Reference signed on May 25, 2010, by the U.S. and Turkish Governments, which set forth the objectives and structure of the Council. The Terms of Reference may be viewed at: *http://www.trade.gov/mac/terms-of-reference-us-turkey-business-council.asp*.

The Council is intended to facilitate the exchange of information and encourage bilateral discussions of business and economic issues, including promoting bilateral trade and investment and improving the business climate in each country. The Council is intended to bring together the respective business communities of the United States and Turkey to discuss such issues of mutual interest and to communicate their joint recommendations to the U.S. and Turkish Governments. The Council will consist of the U.S. and Turkish co-chairs and a Committee comprised of private sector members. The Committee will be composed of two Sections of private sector members, a U.S. Section and a Turkish Section, each of which shall have approximately ten to twelve members, representing the views and interests of their respective private sector business communities. Each government will appoint the members to its respective Section. It is intended that the Committee will provide joint recommendations to the two governments that reflect private sector views, needs, and concerns regarding creation of an environment in which the private sectors of both countries can partner, thrive, and enhance bilateral commercial ties that could form the basis for expanded trade and investment between the United States and Turkey.

The Department of Commerce is currently seeking candidates to apply for membership on the U.S. Section of the Council. Each candidate must be a senior-level executive of a U.S.-owned or controlled company that is incorporated in and has its main headquarters located in the United States and that is currently doing business in Turkey. Each candidate also must be a U.S. citizen, or otherwise legally authorized to work in the United States, and be able to travel to Turkey and locations in the United States to attend official Council meetings, as well as U.S. Section and Committee meetings. In addition, the candidate may not be a registered foreign agent under the Foreign Agents Registration Act of 1938, as amended.

Evaluation of applications for membership in the U.S. Section by eligible individuals will be based on the following criteria:

—A demonstrated commitment by the individual's company to the Turkish market either through exports or investment.
—A demonstrated strong interest in Turkey and its economic development.
—The ability to offer a broad perspective on the business environment in Turkey, including cross-cutting issues that affect the entire business community.
—The ability to initiate and be responsible for activities in which the Council will be active.

Members will be selected on the basis of who will best carry out the objectives of the Council as stated in the Terms of Reference establishing the U.S.-Turkey Business Council. In selecting members of the U.S. Section, the Department of Commerce will also seek to ensure that the Section represents a diversity of business sectors and geographical locations, as well as a cross-section of small, medium, and large-sized firms.

U.S. members will receive no compensation for their participation in Council-related activities. They shall not be considered as special government employees. Individual private sector members will be responsible for all travel and related expenses associated with their participation in the Council, including attendance at Committee and Section meetings. Only appointed members may participate in official Council meetings; substitutes and alternates may not be designated. Members will normally serve for two-year terms, but may be reappointed.

To be considered for membership, please submit the following information as instructed in the **ADDRESSES** and **DATES** captions above:

—Name(s) and title(s) of the individual(s) requesting consideration.
—Name and address of company's headquarters.
—Location of incorporation.
—Size of the company.
—Size of the company's export trade, investment, and nature of operations or interest in Turkey.
—A brief statement of why the candidate should be considered, including information about the candidate's ability to initiate and be responsible for activities in which the Council will be active.

Applications will be considered as they are received. All candidates will be notified of whether they have been selected.

Dated: June 21, 2010.

Jay Burgess,

Director of the Office of European Country Affairs (OECA).

[FR Doc. 2010–15380 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–DA–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–821]

Polyethylene Retail Carrier Bags From Thailand: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* June 25, 2010.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0410.

Background

On August 9, 2004, the Department of Commerce (the Department) published in the **Federal Register** the antidumping duty order on polyethylene retail carrier bags from Thailand. See *Antidumping Duty Order: Polyethylene Retail Carrier Bags From Thailand,* 69 FR 48204 (August 9, 2004). On September 22, 2009, we published a notice of initiation

of an administrative review of the order with respect to six companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 74 FR 48224, 48226 (September 22, 2009).[1] The period of review is August 1, 2008, through July 31, 2009.

As explained in the February 12, 2010, memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll Import Administration deadlines for the duration of the closure of the Federal Government from February 5 through February 12, 2010. Thus, the deadline in this segment of the proceeding has been extended by seven days. As a result, the revised deadline for the preliminary results of this administrative review became May 10, 2010. See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

On May 4, 2010, we extended the time period for issuing the preliminary results of this review by 50 days to June 29, 2010. See *Polyethylene Retail Carrier Bags from Thailand: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 23673 (May 4, 2010).

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published in the **Federal Register**. If it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

We determine that it is not practicable to complete the preliminary results of this review by the current deadline of June 29, 2010, because we require additional time to analyze a number of complex cost-accounting issues relating to this administrative review that have been raised by parties to the proceeding. Therefore, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), we are extending the time period for issuing the preliminary results of this review by an additional 58 days to August 26, 2010.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: June 21, 2010.

Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–15503 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–DS–P

[1] The review covers the following companies: C.P. Packaging Co., Ltd., Giant Pack Co., Ltd., Landblue (Thailand) Co., Ltd., Sahachit Watana Plastics Ind. Co., Ltd., Thai Plastic Bags Industries Co., Ltd., and Thantawan Industry Public Co., Ltd. *Id.* The Department has determined previously that Thai Plastic Bags Industries Co., Ltd., APEC Film Ltd., and Winner's Pack Co., Ltd., comprise the Thai Plastic Bags Group. See *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Thailand,* 69 FR 34122, 34123 (June 18, 2004).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XX09

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Groundfish/Scallop Advisory Panel will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Wednesday, July 14, 2010 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, One Newbury Street, Route 1, Peabody, MA 01960; telephone: (978) 535–4600; fax: (978) 535–8238.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the panel's agenda are as follows:

1. The Joint Groundfish/Scallop Advisory Panel (AP) will meet to consider measures that will facilitate harvesting optimum yield from the two fisheries by addressing the potential constraints of groundfish stock allocations. The Joint AP may also consider measures to reduce catch of groundfish in the scallop fishery by adopting measures that would allow benefits for the fishery from reduction in groundfish catch. This meeting will build on the Panel's work at the first meeting by developing specific measures to forward to the Joint Groundfish/Scallop Committee. These measures will be considered by the Joint Committee at a future date, and may become part of an amendment to the Northeast Multispecies and Scallop Fishery Management Plans.

2. Other business may also be discussed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 22, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–15482 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XX11

New England Fishery Management Council; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings; request for comments.

SUMMARY: The New England Fishery Management Council (Council) will hold six public hearings to solicit

comments on proposals to be included in the Draft Amendment 15 to the Atlantic Sea Scallop Fishery Management Plan (FMP).

DATES: The public hearings will be held from July 12 through July 21, 2010. For specific dates and times, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The Council will take comments at public meetings in Portland, ME; Fairhaven, MA; Chatham, MA; New London, CT; Cape May, NJ and Newport News, VA. For specific locations, see **SUPPLEMENTARY INFORMATION**.

DATES: Written comments should be sent to Patricia Kurkul, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Comments may also be sent via fax to (978) 281–9135 or submitted via e-mail to *amendment15@noaa.gov* with (Comments on Scallop Draft Amendment 15" in the subject line. Requests for copies of the public hearing document and other information should be directed to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492. The public hearing document is also accessible electronically via the Internet at *http://www.nefmc.org*.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Council proposes to take action to amend the Atlantic Sea Scallop Fishery Management Plan (FMP) and to address the new and revised requirements of the Magnuson-Stevens Fisheries Act. The Council will consider comments from fishermen, interested parties and the general public on the proposals and alternatives described in the public hearing document for Draft Amendment 15 to the Scallop FMP. Once it has considered public comments, the Council will approve final management measures and prepare a submission package for NMFS. There will be an additional opportunity for written public comments on the Proposed Rule when it is published in the **Federal Register**.

Major elements of the alternatives in the Draft Amendment 15 and Draft Supplemental Environmental Impact Statement include: (1) implementation and specification of annual catch limits (ACLs) and accountability measures (AMs) to comply with a new mandate of the reauthorized Magnuson-Stevens Act; (2) measures to address excess capacity in the limited access scallop fishery and provide more flexibility for efficient utilization of the resource through various permit stacking and leasing alternatives; and (3) several adjustments to make the overall Scallop FMP more effective. The third general goal includes measures to consider changes to the limited access general category fishery, adjusting the overfishing definition, modifying the essential fish habitat closed areas in the Scallop FMP, changing the scallop fishing year and several adjustments to the research set-aside program.

The dates, times, locations and telephone numbers of the hearings are as follows:

•*Monday, July 12, 2010 at 7 p.m.* - Holiday Inn by the Bay, 88 Spring Street, Portland, ME 04101; telephone: (207) 775–2311;

•*Tuesday, July 13, 2010 at 7 p.m.* - Seaport Inn, 110 Middle Street, Fairhaven, MA 02719; telephone: (508) 997–1281;

•*Wednesday, July 14, 2010 at 7 p.m.* - Chatham Bars Inn, 297 Shore Road, Chatham, MA 02633; telephone: (508) 945–0096;

•*Monday, July 19, 2010 at 7 p.m.* - Radisson Hotel, 35 Governor Winthrop Boulevard, New London, CT 06320; telephone: (860) 443–7000;

•*Tuesday, July 20, 2010 at 7 p.m.* - Congress Hall, 251 Beach Avenue, Cape May, NJ 08204; telephone: (609) 884–8421;

•*Wednesday, July 21, 2010 at 7 p.m.* - Omni Newport News Hotel, 1000 Omni Boulevard, Newport News, VA 23606; telephone: (757) 873–6664.

Special Accommodations

These hearings are physically accessible to people with physical disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 22, 2010.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–15484 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award Panel of Judges

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Panel of Judges of the Malcolm Baldrige National Quality Award will meet on Tuesday, September 7, 2010. The Panel of Judges is composed of twelve members prominent in the fields of quality, innovation, and performance management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of this meeting is to review applicant consensus scores and select applicants for site visit review. The applications under review by Judges contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene September 7, 2010, at 8:15 a.m. and adjourn at 5 p.m. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Lecture Room A, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, Baldrige National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 3, 2009, that the meeting of the Judges Panel will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, Public Law 94–409. The meeting, which involves examination of Award applicant data from U.S. companies and other organizations and a discussion of these data as compared to the Award criteria in order to recommend Award recipients, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, because the meeting is likely to disclose trade secrets and commercial or financial

information obtained from a person which is privileged or confidential.

Katharine B. Gebbie,

Director, Physics Laboratory.

[FR Doc. 2010–15470 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Malcolm Baldrige National Quality Award Panel of Judges

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Panel of Judges of the Malcolm Baldrige National Quality Award will meet Monday, November 15, 2010, 8:30 a.m. to 5:30 p.m., Tuesday, November 16, 2010, 8:30 a.m. to 5:30 p.m., Wednesday, November 17, 2010, 8:30 a.m. to 5:30 p.m., Thursday, November 18, 2010, 8:30 a.m. to 5:30 p.m., and Friday, November 19, 2010, 8:30 a.m. to 5:30 p.m. The Panel of Judges is composed of twelve members prominent in the fields of quality, innovation, and performance management and appointed by the Secretary of Commerce, assembled to advise the Secretary of Commerce on the conduct of the Baldrige Award. The purpose of this meeting is to conduct final judging of the 2010 applicants. The review process involves examination of records and discussions of applicant data, and will be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code.

DATES: The meeting will convene November 15, 2010, at 8:30 a.m. and adjourn at 5:30 p.m. on November 19, 2010. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Lecture Room E, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, Baldrige National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 3, 2009, that the meeting of the Judges Panel will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, Public Law 94–409. The meeting, which involves examination of Award applicant data from U.S. companies and other organizations and a discussion of these data as compared to the Award criteria in order to recommend Award recipients, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, because the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person which is privileged or confidential.

Dated: June 15, 2010.

Katharine B. Gebbie,

Director, Physics Laboratory.

[FR Doc. 2010–15472 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–13–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* June 26, 2010.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 1/22/2010 (75 FR 3714); 3/19/2010 (75 FR 13263–13264); 4/9/2010 (75 FR 18164–18165); and 4/30/2010 (75 FR 22744–22745), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

Glove, Mechanic's

A commercial company submitted comments objecting to the proposed addition. The comments from the company states that they manufacture gloves they claim "could be considered similar" to the gloves identified in the notice of proposed addition to the Procurement List. The company asserts that the nonprofit agency identified to produce the gloves described in the proposed Procurement List addition notice also packages and distributes other gloves in a manner which may violate certain federal statutes. The company asserts that the packaging and distribution of already manufactured products adds minimal value and does not constitute substantial transformation of the product sufficient to place the item on the Procurement List.

In this instance, the description of the work performed by the nonprofit agency sufficiently describes the actions the employees who are blind or have other severe disabilities will perform in order to provide the gloves to the government. The remaining claims of the company are speculative in nature and not related to the particular product being considered by the Committee. Nonetheless, the nonprofit agency provided a letter that certifies its intent to provide the mechanic's gloves in compliance with the Acts cited by CamelBak in its correspondence to the Committee. Therefore, in accordance with its statutory and regulatory obligations, the Committee has evaluated this project and determined it suitable for addition to the Procurement List.

Gloves, Impact

The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) operates pursuant to statutory and regulatory requirements. Committee regulations states that for a commodity or service to be suitable for addition to the Procurement List each of the following criteria must be satisfied: employment potential; nonprofit agency qualifications, capability, and level of impact on the current contractor for the commodity or service.

A commercial company submitted comments objecting to the proposed addition. The comments from the company states that they manufacture gloves they claim "could be considered similar" to the gloves identified in the notice of proposed addition to the Procurement List. The company asserts that the nonprofit agency identified to produce the gloves described in the proposed Procurement List addition notice, also packages and distributes other gloves in a manner which may violate the Trade Agreement Act. The company further states that the subject gloves may be manufactured in

Bangladesh of non-U.S. components and, therefore, the packaging of the subject gloves by the designated nonprofit does not constitute substantial transformation and thus is a misuse of the Procurement List addition process.

The Committee's responsibility under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) is to promote employment opportunities for people who are blind or with other severe disabilities that have an unemployment rate far above people without severe disabilities. In this instance, the description of the work performed by the nonprofit agency, where they will obtain their raw materials, and the actual sewing and packaging process they will provide, sufficiently describes the actions the employees who are blind or have other severe disabilities will perform in order to provide the gloves to the government. The claims of the company are speculative in nature and not related to the particular product being considered by the Committee. Nonetheless, the nonprofit agency provided a letter that certifies its intent to provide the impact gloves in compliance with the Acts cited by CamelBak in its correspondence to the Committee.

The Committee followed its regulatory requirements in considering this project and has determined that this project is suitable for addition to the Procurement List. Addition of this project to the Procurement List will result in employment for people who are blind or have other severe disabilities.

Dining Facility Attendant Service and Cook Support, Joint Base Lewis-McChord, WA

The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) operates pursuant to statutory and regulatory requirements. Committee decisions on what items are suitable for addition to the Procurement List (PL) are specifically guided by regulations in 41 CFR Chapter 51. In order for a commodity or service to be suitable for addition to the PL, each of the following criteria must be satisfied: employment potential; nonprofit agency qualifications, capability, and level of impact on the current contractor for the commodity or service.

The specific service in this instance is dining facility attendant service and cook support at Joint Base Lewis and McChord (JBLM). Currently there are 3 food service contracts in place for Fort Lewis and McChord AFB. Only one of those is a full food service contract under the Randolph-Sheppard Act and awarded through the WDSB—the full food service contract for Fort Lewis. The remaining 2 contracts are for dining facility attendants at Fort Lewis and McChord, and are not under the Randolph-Sheppard Act. Additionally, these contracts were not awarded through WDSB. This proposed PL Addition includes only dining facility attendant service and cook support at JBLM. It does not include the full food service contract in place at Fort Lewis that is in the Randolph-Sheppard Act program and awarded through WDSB. Therefore, the proposed addition does not violate section 856 of the FY2007 NDAA.

Committee members, having considered the comments from WSDB, NFB, and the current contractor regarding the full food service contract, have determined that this proposed addition of dining facility attendant service and cook support at JBLM meets the Committee statutory and regulatory requirements and will be added to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Glove, Mechanic's

NSN: 8415–01–501–1557—Extra-Extra-Large, Black—1 PR
NSN: 8415–01–497–5987—Extra-Large, Black—1 PR
NSN: 8415–01–497–5389—Black, Large—1 PR
NSN: 8415–01–497–5384—Medium, Black—1 PR
NSN: 8415–01–497–5381—Small, Black—1 PR

Gloves, Impact

NSN: 8415–01–498–4968—Extra-Extra-Large, Black
NSN: 8415–01–498–4966—Extra-Large, Black
NSN: 8415–01–498–8180—Large, Black
NSN: 8415–01–498–4964—Medium, Black
NSN: 8415–01–497–7265—Small, Black
NPA: South Texas Lighthouse for the Blind, Corpus Christi, TX.
Contracting Activity: Department of Veterans Affairs, NAC, Hines, IL.
Coverage: C–List for 100% of the requirements for the Department of Veterans Affairs, National Acquisition Center, Hines, IL.

Services

Service Type/Location: Janitorial Service, Marine Corp Base Hawaii, Bldgs 6036, 6677 and Hangers 103 and 104, Kaneohe Bay, HI.
NPA: Opportunities for the Retarded, Inc., Wahiawa, HI.
Contracting Activity: Dept of the Navy, NAVFAC Engineering Command, Hawaii, Pearl Harbor, HI.
Service Type/Location: Dining Facility Attendant Service and Cook Support, Joint Base Lewis-McChord, WA.
NPA Prime Contractor: Lakeview Center, Pensacola, FL.
NPA Subcontractor: Goodwill Contracting Services Inc., Tacoma, WA.
Contracting Activity: Mission & Installation Contracting Command Center–Fort Knox (MICC CEN–FTK), Ft Knox, KY.

Patricia Briscoe,

Deputy Director, Business Operations.

[FR Doc. 2010–15488 Filed 6–24–10; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List: Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other

severe disabilities and to delete products previously furnished by such agencies.

Comments Must Be Received On Or Before: 7/26/2010.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

For Further Information or To Submit Comments Contact: Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

NSN: 7510–01–386–1609—Pen, Correction
NSN: 7520–00–NIB–2075—Markers, Paint, Oil Based, Med Pt, White 6/PG
NSN: 7520–00–NIB–2076—Markers, Paint, Med Pt, Oil Based, Yellow 6/PG
NSN: 7520–00–NIB–2078—Markers, Paint, Med Pt, Oil Based, Rubber Grip, Green
NSN: 7520–00–NIB–2079—Markers, Paint, Med Pt, Oil Based, Black
NSN: 7520–01–207–4159—Marker, Paint, Oil Based, Fine Pt, White, 1 DZ
NSN: 7520–01–207–4167—Markers, Paint, Oil Based, Med Pt, Asst Color 6/ST
NSN: 7520–01–207–4168—Marker, Paint, Oil Based, Med Pt, Asst Colors 12/ST
COVERAGE: A-List for 100% of the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7520–00–NIB–2077—Markers, Paint, Oil Based, Med Pt, Rubber Grip, Blue
NSN: 7520–00–NIB–2080—Markers, Paint, Med Pt, Oil Based, Red, 6/PG
COVERAGE: B-List for 100% of the Broad Government Requirement as aggregated by the General Services Administration.
NPA: Alphapointe Association for the Blind, Kansas City, MO
Contracting Activity: Federal Acquisition Service, GSA/FSS OFC SUP CTR—Paper Products, New York, NY
NSN: 7920–00–NIB–0508—WetTask Wiping System—Bucket
NSN: 7920–00–NIB–0510—WetTask Wiping System—Canister
NPA: East Texas Lighthouse for the Blind, Tyler, TX
Contracting Activity: Department of Veterans Affairs, NAC, HINES, IL
COVERAGE: C-List for 100% of the VA's requirement as aggregated by the Department of Veterans Affairs National Acquisition Center, Hines, IL.
NSN: 8540–00–NIB–0053—Hard Roll Paper Towel, Non-Perforated, 1-ply, 8″ x 600′ rolls, White
NSN: 8540–00–NIB–0054—Hard Roll Paper Towel, Non-Perforated, 1-ply, 8″ x 600′ Natural
NSN: 8540–00–NIB–0055—Hard Roll Paper Towel, Non-Perforated, 1-ply, 8″ x 800′ rolls, white
NSN: 8540–00–NIB–0056—Hard Roll Paper Towel, Non-Perforated, 1-ply, 8″ x 800′ rolls, natural
NSN: 8540–00–NIB–0057—Hard Roll Paper Towel, Non-Perforated, 1-ply, 8″ x 350′ rolls, white
NSN: 8540–00–NIB–0061—Jumbo Roll Toilet Tissue, 1 ply, 3.7″ x 2000′
NSN: 8540–00–NIB–0063—Jumbo Roll Toilet Tissue, 2 ply, 3.7″ x 1000′
NSN: 8540–00–NIB–0007—Jumbo Roll Toilet Tissue, 2 ply, 3.7″ x 2000′, 12″ dia. Roll
NSN: 8540–00–NIB–0064—Center-Pull Paper Towel, 2-ply, Perforated, 8.25 in x 12 in sheets, 600, White
NPA: Outlook-Nebraska, Incorporated, Omaha, NE
Contracting Activity: Federal Acquisition Service, GSA/FSS OFC SUP ctr—Paper Products, New York, NY
COVERAGE: A–List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7510–00–NIB–1792—HP, 53 A & 53 X compatible
NSN: 7510–00–NIB–1794—HP 12A compatible
NSN: 7510–00–NIB–1795—HP 13A & 13X compatible
NSN: 7510–00–NIB–1800—HP 42A and 42X compatible
NSN: 7510–00–NIB–1801—HP 49A compatible
NSN: 7510–00–NIB–1802—HP 49X compatible
COVERAGE: A–List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7510–00–NIB–1793—HP, 10A compatible
NSN: 7510–00–NIB–1796—HP 39A compatible
NSN: 7510–00–NIB–1797—HP 96A compatible
NSN: 7510–00–NIB–1798—HP 51A & 51X compatible
NSN: 7510–00–NIB–1799—HP 43X compatible
COVERAGE: B–List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: Alabama Industries for the Blind, Talladega, AL
Contracting Activity: Federal Acquisition Service, GSA/FSS OFC SUP CTR—Paper Products, New York, NY

Kit, Pre-Cut Fabric

NSN: 8405–00–FAB–0201—Man's, S/S, Air Force Shade 1550, Size 13½
NSN: 8405–00–FAB–0202—Man's, S/S, Air Force Shade 1550, Size 14
NSN: 8405–00–FAB–0203—Man's, S/S, Air Force Shade 1550, Size 14½
NSN: 8405–00–FAB–0204—Man's, S/S, Air Force Shade 1550, Size 15
NSN: 8405–00–FAB–0212—Man's, S/S, Air Force Shade 1550, Size 15½
NSN: 8405–00–FAB–0252—Man's, S/S, Air Force Shade 1550, Size 16
NSN: 8405–00–FAB–0253—Man's, S/S, Air Force Shade 1550, Size 16½
NSN: 8405–00–FAB–0254—Man's, S/S, Air Force Shade 1550, Size 17
NSN: 8405–00–FAB–0255—Man's, S/S, Air Force Shade 1550, Size 17½
NSN: 8405–00–FAB–0256—Man's, S/S, Air Force Shade 1550, Size 18
NSN: 8405–00–FAB–0257—Man's, S/S, Air Force Shade 1550, Size 18½
NSN: 8405–00–FAB–0258—Man's, S/S, Air Force Shade 1550, Size 19
NSN: 8405–00–FAB–0278—Man's, S/S, Air Force Shade 1550, Size 20
NSN: 8410–00–FAB–8362—Woman's, S/S, Air Force Shade 1550, Size 2
NSN: 8410–00–FAB–8361—Woman's, S/S, Air Force Shade 1550, Size 4
NSN: 8410–00–FAB–8360—Woman's, S/S, Air Force Shade 1550, Size 6
NSN: 8410–00–FAB–8359—Woman's, S/S, Air Force Shade 1550, Size 8
NSN: 8410–00–FAB–8358—Woman's, S/S, Air Force Shade 1550, Size 10
NSN: 8410–00–FAB–8357—Woman's, S/S, Air Force Shade 1550, Size 12
NSN: 8410–00–FAB–8356—Woman's, S/S, Air Force Shade 1550, Size 14
NSN: 8410–00–FAB–8355—Woman's, S/S, Air Force Shade 1550, Size 16

NSN: 8410–00–FAB–8354—Woman's, S/S, Air Force Shade 1550, Size 18
NSN: 8410–00–FAB–8353—Woman's, S/S, Air Force Shade 1550, Size 20
NSN: 8410–00–FAB–8395—Women's, L/S, Air Force Shade 1550, Size 4S
NSN: 8410–00–FAB–8396—Women's, L/S, Air Force Shade 1550, Size 4R
NSN: 8410–00–FAB–8398—Women's, L/S, Air Force Shade 1550, Size 6S
NSN: 8410–00–FAB–8399—Women's, L/S, Air Force Shade 1550, Size 6R
NSN: 8410–00–FAB–8409—Women's, L/S, Air Force Shade 1550, Size 6L
NSN: 8410–00–FAB–8411—Women's, L/S, Air Force Shade 1550, Size 8R
NSN: 8410–00–FAB–8412—Women's, L/S, Air Force Shade 1550, Size 8L
NSN: 8410–00–FAB–8413—Women's, L/S, Air Force Shade 1550, Size 10S
NSN: 8410–00–FAB–8414—Women's, L/S, Air Force Shade 1550, Size 10R
NSN: 8410–00–FAB–8415—Women's, L/S, Air Force Shade 1550, Size 10L
NSN: 8410–00–FAB–8416—Women's, L/S, Air Force Shade 1550, Size 12S
NSN: 8410–00–FAB–8417—Women's, L/S, Air Force Shade 1550, Size 12R
NSN: 8410–00–FAB–8418—Women's, L/S, Air Force Shade 1550, Size 12L
NSN: 8410–00–FAB–8420—Women's, L/S, Air Force Shade 1550, Size 14R
NSN: 8410–00–FAB–8421—Women's, L/S, Air Force Shade 1550, Size 14L
NSN: 8410–00–FAB–8423—Women's, L/S, Air Force Shade 1550, Size 16R
NSN: 8410–00–FAB–8424—Women's, L/S, Air Force Shade 1550, Size 16L
NSN: 8410–00–FAB–8426—Women's, L/S, Air Force Shade 1550, Size 18R
NPA: Raleigh Lions Clinic for the Blind, Inc., Raleigh, NC
NSN: 8405–00–COV–4602—US Navy Coveralls, Blue, 34–XS
NSN: 8405–00–COV–4607—US Navy Coveralls, Blue, 36–XS
NSN: 8405–00–COV–3482—US Navy Coveralls, Blue, 36–S
NSN: 8405–00–COV–3483—US Navy Coveralls, Blue, 36–R
NSN: 8405–00–COV–4609—US Navy Coveralls, Blue, 38–XS
NSN: 8405–00–COV–3484—US Navy Coveralls, Blue, 38–S
NSN: 8405–00–COV–3485—US Navy Coveralls, Blue, 38–R
NSN: 8405–00–COV–3486—US Navy Coveralls, Blue, 38–L
NSN: 8405–00–COV–4625—US Navy Coveralls, Blue, 38–XL
NSN: 8405–00–COV–9497—US Navy Coveralls, Blue, 40–XS
NSN: 8405–00–COV–3487—US Navy Coveralls, Blue, 40–S
NSN: 8405–00–COV–3488—US Navy Coveralls, Blue, 40–R
NSN: 8405–00–COV–3489—US Navy Coveralls, Blue, 40–L
NSN: 8405–00–COV–4667—US Navy Coveralls, Blue, 40–XL
NSN: 8405–00–COV–3490—US Navy Coveralls, Blue, 42–S
NSN: 8405–00–COV–3491—US Navy Coveralls, Blue, 42–R
NSN: 8405–00–COV–3492—US Navy Coveralls, Blue, 42–L
NSN: 8405–00–COV–1553—US Navy Coveralls, Blue, 42–XL
NSN: 8405–00–COV–3493—US Navy Coveralls, Blue, 44–S
NSN: 8405–00–COV–3494—US Navy Coveralls, Blue, 44–R
NSN: 8405–00–COV–5582—US Navy Coveralls, Blue, 44–L
NSN: 8405–00–COV–1557—US Navy Coveralls, Blue, 44–XL
NSN: 8405–00–COV–0572—US Navy Coveralls, Blue, 44–2XL
NSN: 8405–00–COV–3495—US Navy Coveralls, Blue, 46–S
NSN: 8405–00–COV–3496—US Navy Coveralls, Blue, 46–R
NSN: 8405–00–COV–3497—US Navy Coveralls, Blue, 46–L
NSN: 8405–00–COV–1560—US Navy Coveralls, Blue, 46–XL
NSN: 8405–00–COV–0647—US Navy Coveralls, Blue, 46–2XL
NSN: 8405–00–COV–3498—US Navy Coveralls, Blue, 48–R
NSN: 8405–00–COV–3499—US Navy Coveralls, Blue, 48–L
NSN: 8405–00–COV–1567—US Navy Coveralls, Blue, 48–XL
NSN: 8405–00–COV–0650—US Navy Coveralls, Blue, 48–2XL
NSN: 8405–00–COV–0354—US Navy Coveralls, Blue, 50–R
NSN: 8405–00–COV–0636—US Navy Coveralls, Blue, 50–L
NSN: 8405–00–COV–1569—US Navy Coveralls, Blue, 50–XL
NSN: 8405–00–COV–0649—US Navy Coveralls, Blue, 50–2XL
NSN: 8405–00–COV–0641—US Navy Coveralls, Blue, 52–R
NSN: 8405–00–COV–0639—US Navy Coveralls, Blue, 52–L
NSN: 8405–00–COV–1571—US Navy Coveralls, Blue, 52–XL
NSN: 8405–00–COV–0651—US Navy Coveralls, Blue, 52–2XL
NSN: 8405–00–COV–4670—US Navy Coveralls, Blue, 54–L
NSN: 8405–00–COV–4672—US Navy Coveralls, Blue, 54–XL
NSN: 8405–00–COV–0652—US Navy Coveralls, Blue, 54–2XL
NSN: 8405–00–COV–9127—US Navy Coveralls, Blue, 56–R
NSN: 8405–00–COV–4009—US Navy Coveralls, Green, 36–S
NSN: 8405–00–COV–4011—US Navy Coveralls, Green, 36–R
NSN: 8405–00–COV–4017—US Navy Coveralls, Green, 38–S
NSN: 8405–00–COV–4022—US Navy Coveralls, Green, 38–R
NSN: 8405–00–COV–4032—US Navy Coveralls, Green, 38–L
NSN: 8405–00–COV–4038—US Navy Coveralls, Green, 40–S
NSN: 8405–00–COV–4039—US Navy Coveralls, Green, 40–R
NSN: 8405–00–COV–4058—US Navy Coveralls, Green, 40–L
NSN: 8405–00–COV–4063—US Navy Coveralls, Green, 42–S
NSN: 8405–00–COV–4143—US Navy Coveralls, Green, 42–R
NSN: 8405–00–COV–4294—US Navy Coveralls, Green, 42–L
NSN: 8405–00–COV–4298—US Navy Coveralls, Green, 44–S
NSN: 8405–00–COV–4320—US Navy Coveralls, Green, 44–R
NSN: 8405–00–COV–4346—US Navy Coveralls, Green, 44–L
NSN: 8405–00–COV–4361—US Navy Coveralls, Green, 46–S
NSN: 8405–00–COV–4375—US Navy Coveralls, Green, 46–R
NSN: 8405–00–COV–4439—US Navy Coveralls, Green, 46–L
NSN: 8405–00–COV–4679—US Navy Coveralls, Green, 48–R
NSN: 8405–00–COV–4906—US Navy Coveralls, Green, 48–L
NSN: 8405–00–COV–4911—US Navy Coveralls, Green, 50–R
NSN: 8405–00–COV–4926—US Navy Coveralls, Green, 50–L
NSN: 8405–00–COV–4930—US Navy Coveralls, Green, 52–R
NSN: 8405–00–COV–4960—US Navy Coveralls, Green, 52–L
NSN: 8415–00–FAB–6409—GEN III ECWCS, Trouser, UCamo, XL–XL
NSN: 8415–00–FAB–6410—GEN III ECWCS, Trouser, UCamo, XS–XS
NSN: 8415–00–FAB–6411—GEN III ECWCS, Trouser, UCamo, XS–S
NSN: 8415–00–FAB–6412—GEN III ECWCS, Trouser, UCamo, XS–R
NSN: 8415–00–FAB–6413—GEN III ECWCS, Trouser, UCamo, XS–L
NSN: 8415–00–FAB–6414—GEN III ECWCS, Trouser, UCamo, XS–XL
NSN: 8415–00–FAB–6416—GEN III ECWCS, Trouser, UCamo, S–XS
NSN: 8415–00–FAB–6417—GEN III ECWCS, Trouser, UCamo, S–S
NSN: 8415–00–FAB–6418—GEN III ECWCS, Trouser, UCamo, S–R
NSN: 8415–00–FAB–6419—GEN III ECWCS, Trouser, UCamo, S–L
NSN: 8415–00–FAB–6424—GEN III ECWCS, Trouser, UCamo, S–XL
NSN: 8415–00–FAB–6425—GEN III ECWCS, Trouser, UCamo, M–XS
NSN: 8415–00–FAB–6426—GEN III ECWCS, Trouser, UCamo, M–S
NSN: 8415–00–FAB–6427—GEN III ECWCS, Trouser, UCamo, M–R
NSN: 8415–00–FAB–6428—GEN III ECWCS, Trouser, UCamo, M–L
NSN: 8415–00–FAB–6429—GEN III ECWCS, Trouser, UCamo, M–XL
NSN: 8415–00–FAB–6430—GEN III ECWCS, Trouser, UCamo, L–S
NSN: 8415–00–FAB–6436—GEN III ECWCS, Trouser, UCamo, L–XS
NSN: 8415–00–FAB–6437—GEN III ECWCS, Trouser, UCamo, L–R
NSN: 8415–00–FAB–6441—GEN III ECWCS, Trouser, UCamo, L–L
NSN: 8415–00–FAB–6442—GEN III ECWCS, Trouser, UCamo, L–XL
NSN: 8415–00–FAB–6443—GEN III ECWCS, Trouser, UCamo, XL–XS
NSN: 8415–00–FAB–6445—GEN III ECWCS, Trouser, UCamo, XL–S
NSN: 8415–00–FAB–6446—GEN III ECWCS, Trouser, UCamo, XL–R
NSN: 8415–00–FAB–6448—GEN III ECWCS, Trouser, UCamo, XL–L
NSN: 8415–00–FAB–6529—GEN III ECWCS, Trouser, UCamo, 2XL–2XL

NSN: 8415–00–FAB–6537—GEN III ECWCS, Trouser, UCamo, 2XL–L
NSN: 8415–00–FAB–6536—GEN III ECWCS, Trouser, UCamo, 2XL–R
NSN: 8415–00–FAB–6535—GEN III ECWCS, Trouser, UCamo, 2XL–S
NSN: 8415–00–FAB–6538—GEN III ECWCS, Trouser, UCamo, 2XL–XL
NSN: 8415–00–FAB–6534—GEN III ECWCS, Trouser, UCamo, 2XL–XS
NSN: 8415–00–FAB–6533—GEN III ECWCS, Trouser, UCamo, L–2XL
NSN: 8415–00–FAB–6530—GEN III ECWCS, Trouser, UCamo, M–2XL
NSN: 8415–00–FAB–6532—GEN III ECWCS, Trouser, UCamo, S–2XL
NSN: 8415–00–FAB–6531—GEN III ECWCS, Trouser, UCamo, XL–2XL
NSN: 8415–00–FAB–6528—GEN III ECWCS, Trouser, UCamo, SX–2XL
NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC
NSN: 8405–00–NIB–0307—S/S, Army White, Athletic, 15.5R–A
NSN: 8405–00–NIB–0308—S/S, Army White, Athletic, 16R–A
NSN: 8405–00–NIB–0309—S/S, Army White, Athletic, 16L–A
NSN: 8405–00–NIB–0310—S/S, Army White, Athletic, 16.5R–A
NSN: 8405–00–NIB–0311—S/S, Army White, Athletic, 16.5L–A
NSN: 8405–00–NIB–0312—S/S, Army White, Athletic, 17R–A
NSN: 8405–00–NIB–0313—S/S, Army White, Athletic, 17L–A
NSN: 8405–00–NIB–0314—S/S, Army White, Athletic, 17.5R–A
NSN: 8405–00–NIB–0315—S/S, Army White, Athletic, 17.5L–A
NSN: 8405–00–NIB–0316—S/S, Army White, Athletic, 18R–A
NSN: 8405–00–NIB–0317—S/S, Army White, Athletic, 18L–A
NSN: 8405–00–NIB–0318—S/S, Army White, Athletic, 18.5L–A
NSN: 8405–00–NIB–0319—S/S, Army White, Athletic, 19L–A
NSN: 8405–00–NIB–0320—S/S, Army White, Classic, 13.5R–C
NSN: 8405–00–NIB–0321—S/S, Army White, Classic, 14R–C
NSN: 8405–00–NIB–0322—S/S, Army White, Classic, 14.5R–C
NSN: 8405–00–NIB–0323—S/S, Army White, Classic, 15R–C
NSN: 8405–00–NIB–0324—S/S, Army White, Classic, 15.5R–C
NSN: 8405–00–NIB–0325—S/S, Army White, Classic, 16R–C
NSN: 8405–00–NIB–0326—S/S, Army White, Classic, 16L–C
NSN: 8405–00–NIB–0327—S/S, Army White, Classic, 16.5R–C
NSN: 8405–00–NIB–0328—S/S, Army White, Classic, 16.5L–C
NSN: 8405–00–NIB–0329—S/S, Army White, Classic, 17R–C
NSN: 8405–00–NIB–0330—S/S, Army White, Classic, 17L–C
NSN: 8405–00–NIB–0331—S/S, Army White, Classic, 17.5R–C
NSN: 8405–00–NIB–0332—S/S, Army White, Classic, 17.5L–C
NSN: 8405–00–NIB–0333—S/S, Army White, Classic, 18R–C
NSN: 8405–00–NIB–0334—S/S, Army White, Classic, 18L–C
NSN: 8405–00–NIB–0335—S/S, Army White, Classic, 18.5R–C
NSN: 8405–00–NIB–0336—S/S, Army White, Classic, 18.5L–C
NSN: 8405–00–NIB–0337—S/S, Army White, Classic, 19R–C
NSN: 8405–00–NIB–0338—S/S, Army White, Classic, 19L–C
NSN: 8405–00–NIB–0339—L/S, Army White, Athletic, 15.5x32/33–A
NSN: 8405–00–NIB–0340—L/S, Army White, Athletic, 15.5x34/35–A
NSN: 8405–00–NIB–0341—L/S, Army White, Athletic, 16x30/31–A
NSN: 8405–00–NIB–0342—L/S, Army White, Athletic, 16x32/33–A
NSN: 8405–00–NIB–0343—L/S, Army White, Athletic, 16x34/35–A
NSN: 8405–00–NIB–0344—L/S, Army White, Athletic, 16.5x32/33–A
NSN: 8405–00–NIB–0345—L/S, Army White, Athletic, 16.5x34/35–A
NSN: 8405–00–NIB–0346—L/S, Army White, Athletic, 16.5x36/37–A
NSN: 8405–00–NIB–0347—L/S, Army White, Athletic, 17x32/33–A
NSN: 8405–00–NIB–0348—L/S, Army White, Athletic, 17x34/35–A
NSN: 8405–00–NIB–0349—L/S, Army White, Athletic, 17x36/37–A
NSN: 8405–00–NIB–0350—L/S, Army White, Athletic, 17x38–A
NSN: 8405–00–NIB–0351—L/S, Army White, Athletic, 17.5x32/33–A
NSN: 8405–00–NIB–0352—L/S, Army White, Athletic, 17.5x34/35–A
NSN: 8405–00–NIB–0353—L/S, Army White, Athletic, 17.5x36/37–A
NSN: 8405–00–NIB–0354—L/S, Army White, Athletic, 18x32/33–A
NSN: 8405–00–NIB–0355—L/S, Army White, Athletic, 18x34/35–A
NSN: 8405–00–NIB–0356—L/S, Army White, Athletic, 18x36/37–A
NSN: 8405–00–NIB–0357—L/S, Army White, Athletic, 18x38–A
NSN: 8405–00–NIB–0358—L/S, Army White, Athletic, 18.5x32/33–A
NSN: 8405–00–NIB–0359—L/S, Army White, Athletic, 18.5x34/35–A
NSN: 8405–00–NIB–0360—L/S, Army White, Athletic, 18.5x36/37–A
NSN: 8405–00–NIB–0361—L/S, Army White, Athletic, 18.5x38–A
NSN: 8405–00–NIB–0362—L/S, Army White, Athletic, 19x34/35–A
NSN: 8405–00–NIB–0363—L/S, Army White, Athletic, 19x36/37–A
NSN: 8405–00–NIB–0364—L/S, Army White, Athletic, 19x38–A
NSN: 8405–00–NIB–0365—L/S, Army White, Athletic, 19.5x34/35–A
NSN: 8405–00–NIB–0366—L/S, Army White, Athletic, 19.5x36/37–A
NSN: 8405–00–NIB–0367—L/S, Army White, Athletic, 20x34/35–A
NSN: 8405–00–NIB–0368—L/S, Army White, Athletic, 20x36/37–A
NSN: 8405–00–NIB–0369—L/S, Army White, Classic, 13.5x32/33–C
NSN: 8405–00–NIB–0370—L/S, Army White, Classic, 14x29–C
NSN: 8405–00–NIB–0371—L/S, Army White, Classic, 14x30/31–C
NSN: 8405–00–NIB–0372—L/S, Army White, Classic, 14x32/33–C
NSN: 8405–00–NIB–0373—L/S, Army White, Classic, 14.5x30/31–C
NSN: 8405–00–NIB–0374—L/S, Army White, Classic, 14.5x32/33–C
NSN: 8405–00–NIB–0375—L/S, Army White, Classic, 15x29–C
NSN: 8405–00–NIB–0376—L/S, Army White, Classic, 15x30/31–C
NSN: 8405–00–NIB–0377—L/S, Army White, Classic, 15x32/33–C
NSN: 8405–00–NIB–0378—L/S, Army White, Classic, 15x34/35–C
NSN: 8405–00–NIB–0379—L/S, Army White, Classic, 15.5x30/31–C
NSN: 8405–00–NIB–0380—L/S, Army White, Classic, 15.5x32/33–C
NSN: 8405–00–NIB–0381—L/S, Army White, Classic, 15.5x34/35–C
NSN: 8405–00–NIB–0382—L/S, Army White, Classic, 15.5x36/37–C
NSN: 8405–00–NIB–0383—L/S, Army White, Classic, 16x29–C
NSN: 8405–00–NIB–0384—L/S, Army White, Classic, 16x30/31–C
NSN: 8405–00–NIB–0385—L/S, Army White, Classic, 16x32/33–C
NSN: 8405–00–NIB–0386—L/S, Army White, Classic, 16x34/35–C
NSN: 8405–00–NIB–0387—L/S, Army White, Classic, 16x36/37–C
NSN: 8405–00–NIB–0388—L/S, Army White, Classic, 16x38–C
NSN: 8405–00–NIB–0389—L/S, Army White, Classic, 16.5x30/31–C
NSN: 8405–00–NIB–0390—L/S, Army White, Classic, 16.5x32/33–C
NSN: 8405–00–NIB–0391—L/S, Army White, Classic, 16.5x34/35–C
NSN: 8405–00–NIB–0392—L/S, Army White, Classic, 16.5x36/37–C
NSN: 8405–00–NIB–0393—L/S, Army White, Classic, 16.5x38–C
NSN: 8405–00–NIB–0394—L/S, Army White, Classic, 17x32/33–C
NSN: 8405–00–NIB–0395—L/S, Army White, Classic, 17x34/35–C
NSN: 8405–00–NIB–0396—L/S, Army White, Classic, 17x36/37–C
NSN: 8405–00–NIB–0397—L/S, Army White, Classic, 17.5x32/33–C
NSN: 8405–00–NIB–0398—L/S, Army White, Classic, 17.5x34/35–C
NSN: 8405–00–NIB–0399—L/S, Army White, Classic, 17.5x36/37–C
NSN: 8405–00–NIB–0400—L/S, Army White, Classic, 18x32/33–C
NSN: 8405–00–NIB–0401—L/S, Army White, Classic, 18x34/35–C
NSN: 8405–00–NIB–0402—L/S, Army White, Classic, 18x36/37–C
NSN: 8405–00–NIB–0403—L/S, Army White, Classic, 18x38–C
NSN: 8405–00–NIB–0404—L/S, Army White, Classic, 18.5x34/35–C
NSN: 8405–00–NIB–0405—L/S, Army White, Classic, 18.5x36/37–C
NSN: 8405–00–NIB–0406—L/S, Army White, Classic, 18.5x38–C
NSN: 8405–00–NIB–0407—L/S, Army White, Classic, 19x34/35–C
NSN: 8405–00–NIB–0408—L/S, Army White, Classic, 19x36/37–C
NSN: 8405–00–NIB–0409—L/S, Army White, Classic, 19x38–C

NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC
NSN: 8415–00–NIB–0827—Mock Turtleneck, XS
NSN: 8415–00–NIB–0828—Mock Turtleneck, S
NSN: 8415–00–NIB–0829—Mock Turtleneck, M
NSN: 8415–00–NIB–0830—Mock Turtleneck, L
NSN: 8415–00–NIB–0831—Mock Turtleneck, XL
NSN: 8415–00–NIB–0832—Mock Turtleneck, 2X
NSN: 8415–00–NIB–0833—Mock Turtleneck, 3X
NSN: 8415–00–FAB–9788—BDU Coat, Woodland, Type I, XS/XS
NSN: 8415–00–FAB–9789—BDU Coat, Woodland, Type I, XS/S
NSN: 8415–00–FAB–9790—BDU Coat, Woodland, Type I, S/XS
NSN: 8415–00–FAB–9791—BDU Coat, Woodland, Type I, S/S
NSN: 8415–00–FAB–9792—BDU Coat, Woodland, Type I, S/R
NSN: 8415–00–FAB–9793—BDU Coat, Woodland, Type I, S/L
NSN: 8415–00–FAB–9794—BDU Coat, Woodland, Type I, M/XS
NSN: 8415–00–FAB–9795—BDU Coat, Woodland, Type I, M/S
NSN: 8415–00–FAB–9796—BDU Coat, Woodland, Type I, M/R
NSN: 8415–00–FAB–9797—BDU Coat, Woodland, Type I, M/L
NSN: 8415–00–FAB–9798—BDU Coat, Woodland, Type I, L/S
NSN: 8415–00–FAB–9799—BDU Coat, Woodland, Type I, L/L
NSN: 8415–00–FAB–9800—BDU Coat, Woodland, Type I, XL/R
NSN: 8415–00–FAB–9801—BDU Coat, Woodland, Type I, XL/L
NSN: 8415–00–FAB–9802—BDU Coat, Woodland, Type I, S/XXS
NSN: 8415–00–FAB–9803—BDU Coat, Woodland, Type I, M/XXS
NSN: 8415–00–FAB–9804—BDU Coat, Woodland, Type I, L/XS
NSN: 8415–00–FAB–9805—BDU Coat, Woodland, Type I, L/R
NSN: 8415–00–FAB–9806—BDU Coat, Woodland, Type I, XS/R
NSN: 8415–00–FAB–9807—BDU Coat, Woodland, Type I, S/XL
NSN: 8415–00–FAB–9808—BDU Coat, Woodland, Type I, M/XL
NSN: 8415–00–FAB–9809—BDU Coat, Woodland, Type I, L/XL
NSN: 8415–00–FAB–5070—BDU Coat, Woodland, Type I, XS/XXS
NSN: 8415–00–FAB–5071—BDU Coat, Woodland, Type I, XS/L
NSN: 8415–00–FAB–5072—BDU Coat, Woodland, Type I, S/XXXS
NSN: 8415–00–FAB–5073—BDU Coat, Woodland, Type I, L/XXL
NSN: 8415–00–FAB–5075—BDU Coat, Woodland, Type I, XXL/XL
NSN: 8415–00–FAB–5074—BDU Coat, Woodland, Type I, XL/XL
NSN: 8415–00–FAB–9835—BDU Coat, Woodland, Type VI, XS/XS
NSN: 8415–00–FAB–9836—BDU Coat, Woodland, Type VI, XS/R
NSN: 8415–00–FAB–9837—BDU Coat, Woodland, Type VI, S/S
NSN: 8415–00–FAB–9838—BDU Coat, Woodland, Type VI, S/XL
NSN: 8415–00–FAB–9839—BDU Coat, Woodland, Type VI, M/XS
NSN: 8415–00–FAB–9840—BDU Coat, Woodland, Type VI, M/XXS
NSN: 8415–00–FAB–9841—BDU Coat, Woodland, Type VI, S/L
NSN: 8415–00–FAB–9842—BDU Coat, Woodland, Type VI, M/R
NSN: 8415–00–FAB–9843—BDU Coat, Woodland, Type VI, S/R
NSN: 8415–00–FAB–9844—BDU Coat, Woodland, Type VI, XS/S
NSN: 8415–00–FAB–9845—BDU Coat, Woodland, Type VI, M/XL
NSN: 8415–00–FAB–9846—BDU Coat, Woodland, Type VI, M/S
NSN: 8415–00–FAB–9847—BDU Coat, Woodland, Type VI, M/L
NSN: 8415–00–FAB–9848—BDU Coat, Woodland, Type VI, L/R
NSN: 8415–00–FAB–9849—BDU Coat, Woodland, Type VI, L/XL
NSN: 8415–00–FAB–9850—BDU Coat, Woodland, Type VI, XL/L
NSN: 8415–00–FAB–9851—BDU Coat, Woodland, Type VI, L/L
NSN: 8415–00–FAB–9852—BDU Coat, Woodland, Type VI, XL/R
NSN: 8415–00–FAB–9853—BDU Coat, Woodland, Type VI, L/XS
NSN: 8415–00–FAB–9854—BDU Coat, Woodland, Type VI, S/XXS
NSN: 8415–00–FAB–9855—BDU Coat, Woodland, Type VI, S/XS
NSN: 8415–00–FAB–9856—BDU Coat, Woodland, Type VI, L/S
NSN: 8415–00–FAB–5079—BDU Coat, Woodland, Type VI, XS/XXS
NSN: 8415–00–FAB–5078—BDU Coat, Woodland, Type VI, XS/L
NSN: 8415–00–FAB–5080—BDU Coat, Woodland, Type VI, S/XXXS
NSN: 8415–00–FAB–5077—BDU Coat, Woodland, Type VI, L/XXL
NSN: 8415–00–FAB–5076—BDU Coat, Woodland, Type VI, XL/XL
NSN: 8415–00–FAB–5081—BDU Coat, Woodland, Type VI, XXL/XL
NSN: 8415–00–FAB–9813—BDU Coat, Desert, Type VII, XS/XS
NSN: 8415–00–FAB–9814—BDU Coat, Desert, Type VII, XS/S
NSN: 8415–00–FAB–9815—BDU Coat, Desert, Type VII, XS/R
NSN: 8415–00–FAB–9816—BDU Coat, Desert, Type VII, S/XXS
NSN: 8415–00–FAB–9817—BDU Coat, Desert, Type VII, S/XS
NSN: 8415–00–FAB–9818—BDU Coat, Desert, Type VII, S/S
NSN: 8415–00–FAB–9819—BDU Coat, Desert, Type VII, S/R
NSN: 8415–00–FAB–9820—BDU Coat, Desert, Type VII, S/L
NSN: 8415–00–FAB–9821—BDU Coat, Desert, Type VII, S/XL
NSN: 8415–00–FAB–9822—BDU Coat, Desert, Type VII, M/XXS
NSN: 8415–00–FAB–9823—BDU Coat, Desert, Type VII, M/XS
NSN: 8415–00–FAB–9824—BDU Coat, Desert, Type VII, M/S
NSN: 8415–00–FAB–9825—BDU Coat, Desert, Type VII, M/R
NSN: 8415–00–FAB–9826—BDU Coat, Desert, Type VII, M/L
NSN: 8415–00–FAB–9827—BDU Coat, Desert, Type VII, M/XL
NSN: 8415–00–FAB–9828—BDU Coat, Desert, Type VII, L/XS
NSN: 8415–00–FAB–9829—BDU Coat, Desert, Type VII, L/S
NSN: 8415–00–FAB–9830—BDU Coat, Desert, Type VII, L/R
NSN: 8415–00–FAB–9831—BDU Coat, Desert, Type VII, L/L
NSN: 8415–00–FAB–9832—BDU Coat, Desert, Type VII, L/XL
NSN: 8415–00–FAB–9833—BDU Coat, Desert, Type VII, XL/R
NSN: 8415–00–FAB–9834—BDU Coat, Desert, Type VII, XL/L
NSN: 8415–00–FAB–9736—BDU Coat, Desert, Type VII, XS/XXS
NSN: 8415–00–FAB–9737—BDU Coat, Desert, Type VII, L/XXL
NSN: 8415–00–FAB–9738—BDU Coat, Desert, Type VII, XL/XL
NSN: 8415–00–FAB–9739—BDU Coat, Desert, Type VII, XXL/XL
NSN: 8415–00–FAB–5329—BDU Coat, Desert, Type VII, S/XXS
NSN: 8415–00–FAB–9769—BDU Trouser, Woodland, Type I, L/S
NSN: 8415–00–FAB–8253—BDU Trouser, Woodland, Type I, L/R
NSN: 8415–00–FAB–8204—BDU Trouser, Woodland, Type I, XS/XS
NSN: 8415–00–FAB–8299—BDU Trouser, Woodland, Type I, XS/R
NSN: 8415–00–FAB–8300—BDU Trouser, Woodland, Type I, S/XS
NSN: 8415–00–FAB–8205—BDU Trouser, Woodland, Type I, S/S
NSN: 8415–00–FAB–8301—BDU Trouser, Woodland, Type I, S/R
NSN: 8415–00–FAB–8206—BDU Trouser, Woodland, Type I, S/L
NSN: 8415–00–FAB–8302—BDU Trouser, Woodland, Type I, M/XS
NSN: 8415–00–FAB–8207—BDU Trouser, Woodland, Type I, M/S
NSN: 8415–00–FAB–8208—BDU Trouser, Woodland, Type I, M/R
NSN: 8415–00–FAB–8209—BDU Trouser, Woodland, Type I, L/L
NSN: 8415–00–FAB–8303—BDU Trouser, Woodland, Type I, XL/R
NSN: 8415–00–FAB–8304—BDU Trouser, Woodland, Type I, XS/S
NSN: 8415–00–FAB–8210—BDU Trouser, Woodland, Type I, M/L
NSN: 8415–00–FAB–8305—BDU Trouser, Woodland, Type I, XL/S
NSN: 8415–00–FAB–8306—BDU Trouser, Woodland, Type I, XS/L
NSN: 8415–00–FAB–8307—BDU Trouser, Woodland, Type I, S/XL
NSN: 8415–00–FAB–8308—BDU Trouser, Woodland, Type I, M/XL
NSN: 8415–00–FAB–8211—BDU Trouser, Woodland, Type I, L/XL
NSN: 8415–00–FAB–8212—BDU Trouser, Woodland, Type I, XL/L
NSN: 8415–00–FAB–8271—BDU Trouser, Woodland, Type I, M/XXL
NSN: 8415–00–FAB–8272—BDU Trouser, Woodland, Type I, L/XXL

NSN: 8415–00–FAB–8273—BDU Trouser, Woodland, Type I, XXL/XXL
NSN: 8415–00–FAB–8578—BDU Trouser, Woodland, Type VI, XS/XS
NSN: 8415–00–FAB–8577—BDU Trouser, Woodland, Type VI, XS/S
NSN: 8415–00–FAB–8254—BDU Trouser, Woodland, Type VI, XS/L
NSN: 8415–00–FAB–8255—BDU Trouser, Woodland, Type VI, S/XS
NSN: 8415–00–FAB–8247—BDU Trouser, Woodland, Type VI, S/L
NSN: 8415–00–FAB–8256—BDU Trouser, Woodland, Type VI, S/XL
NSN: 8415–00–FAB–8257—BDU Trouser, Woodland, Type VI, S/R
NSN: 8415–00–FAB–8258—BDU Trouser, Woodland, Type VI, M/S
NSN: 8415–00–FAB–8259—BDU Trouser, Woodland, Type VI, M/XS
NSN: 8415–00–FAB–8260—BDU Trouser, Woodland, Type VI, M/L
NSN: 8415–00–FAB–8248—BDU Trouser, Woodland, Type VI, M/XL
NSN: 8415–00–FAB–8249—BDU Trouser, Woodland, Type VI, M/R
NSN: 8415–00–FAB–8261—BDU Trouser, Woodland, Type VI, L/R
NSN: 8415–00–FAB–8250—BDU Trouser, Woodland, Type VI, L/S
NSN: 8415–00–FAB–8262—BDU Trouser, Woodland, Type VI, L/XL
NSN: 8415–00–FAB–8263—BDU Trouser, Woodland, Type VI, XL/S
NSN: 8415–00–FAB–8264—BDU Trouser, Woodland, Type VI, XL/L
NSN: 8415–00–FAB–8265—BDU Trouser, Woodland, Type VI, XL/R
NSN: 8415–00–FAB–8266—BDU Trouser, Woodland, Type VI, XS/R
NSN: 8415–00–FAB–8267—BDU Trouser, Woodland, Type VI, S/S
NSN: 8415–00–FAB–8251—BDU Trouser, Woodland, Type VI, L/L
NSN: 8415–00–FAB–8268—BDU Trouser, Woodland, Type VI, XXL/XXL
NSN: 8415–00–FAB–8269—BDU Trouser, Woodland, Type VI, L/XXL
NSN: 8415–00–FAB–8270—BDU Trouser, Woodland, Type VI, M/XXL
NSN: 8415–00–FAB–8227—BDU Trouser, Desert, Type VII, XS/XS
NSN: 8415–00–FAB–8228—BDU Trouser, Desert, Type VII, XS/S
NSN: 8415–00–FAB–8229—BDU Trouser, Desert, Type VII, XS/R
NSN: 8415–00–FAB–8230—BDU Trouser, Desert, Type VII, XS/L
NSN: 8415–00–FAB–8231—BDU Trouser, Desert, Type VII, S/XS
NSN: 8415–00–FAB–8232—BDU Trouser, Desert, Type VII, S/S
NSN: 8415–00–FAB–8233—BDU Trouser, Desert, Type VII, S/R
NSN: 8415–00–FAB–8234—BDU Trouser, Desert, Type VII, S/L
NSN: 8415–00–FAB–8235—BDU Trouser, Desert, Type VII, S/XL
NSN: 8415–00–FAB–8236—BDU Trouser, Desert, Type VII, M/XS
NSN: 8415–00–FAB–8237—BDU Trouser, Desert, Type VII, M/S
NSN: 8415–00–FAB–8238—BDU Trouser, Desert, Type VII, M/R
NSN: 8415–00–FAB–8239—BDU Trouser, Desert, Type VII, M/L
NSN: 8415–00–FAB–8240—BDU Trouser, Desert, Type VII, M/XL
NSN: 8415–00–FAB–8241—BDU Trouser, Desert, Type VII, L/S
NSN: 8415–00–FAB–8242—BDU Trouser, Desert, Type VII, L/R
NSN: 8415–00–FAB–8243—BDU Trouser, Desert, Type VII, L/L
NSN: 8415–00–FAB–8244—BDU Trouser, Desert, Type VII, L/XL
NSN: 8415–00–FAB–8313—BDU Trouser, Desert, Type VII, XL/S
NSN: 8415–00–FAB–8245—BDU Trouser, Desert, Type VII, XL/R
NSN: 8415–00–FAB–8246—BDU Trouser, Desert, Type VII, XL/L
NSN: 8415–00–FAB–0101—BDU Trouser, Desert, Type VII, M/2XL
NSN: 8415–00–FAB–0113—BDU Trouser, Desert, Type VII, L/2XL
NSN: 8415–00–FAB–0105—BDU Trouser, Desert, Type VII, 2XL/2XL
NSN: 8415–00–FAB–5722—ACU Coat, XS–XS
NSN: 8415–00–FAB–5723—ACU Coat, XS–S
NSN: 8415–00–FAB–5724—ACU Coat, XS–R
NSN: 8415–00–FAB–5725—ACU Coat, S–XXS
NSN: 8415–00–FAB–5726—ACU Coat, S–XS
NSN: 8415–00–FAB–5728—ACU Coat, S–R
NSN: 8415–00–FAB–5727—ACU Coat, S–S
NSN: 8415–00–FAB–5729—ACU Coat, S–L
NSN: 8415–00–FAB–5731—ACU Coat, M–XXS
NSN: 8415–00–FAB–5730—ACU Coat, S–XL
NSN: 8415–00–FAB–5732—ACU Coat, M–XS
NSN: 8415–00–FAB–5733—ACU Coat, M–S
NSN: 8415–00–FAB–5734—ACU Coat, M–R
NSN: 8415–00–FAB–5735—ACU Coat, M–L
NSN: 8415–00–FAB–5736—ACU Coat, M–XL
NSN: 8415–00–FAB–5737—ACU Coat, L–XS
NSN: 8415–00–FAB–5738—ACU Coat, L–S
NSN: 8415–00–FAB–5739—ACU Coat, L–R
NSN: 8415–00–FAB–5740—ACU Coat, L–L
NSN: 8415–00–FAB–5741—ACU Coat, L–XL
NSN: 8415–00–FAB–5745—ACU Coat, XL–XL
NSN: 8415–00–FAB–5744—ACU Coat, XL–L
NSN: 8415–00–FAB–5742—ACU Coat, L–XXL
NSN: 8415–00–FAB–5746—ACU Coat, XXL–XL
NSN: 8415–00–FAB–5743—ACU Coat, XL–R
NSN: 8415–00–FAB–0521—ACU Coat, XS–L
NSN: 8415–00–FAB–0523—ACU Coat, XS–XL
NSN: 8415–00–FAB–1733—ACU Coat, XL–S
NSN: 8415–00–FAB–0531—ACU Coat, XXL–R
NSN: 8415–00–FAB–1734—ACU Coat, XXL–L
NSN: 8415–00–FAB–1730—ACU Coat, XS–XXS
NSN: 8415–00–FAB–1731—ACU Coat, M–XXL
NSN: 8415–00–FAB–0525—ACU Coat, L–XXS
NSN: 8415–00–FAB–0529—ACU Coat, XL–XXS
NSN: 8415–00–FAB–1732—ACU Coat, XL–XS
NSN: 8415–00–FAB–0542—ACU Coat, XL–XXL
NSN: 8415–00–FAB–0541—ACU Coat, XXL–XXL
NSN: 8415–00–FAB–5747—ACU Trouser, XS–XS
NSN: 8415–00–FAB–6701—ACU Trouser, XS–XXL
NSN: 8415–00–FAB–5748—ACU Trouser, XS–S
NSN: 8415–00–FAB–6700—ACU Trouser, XS–XL
NSN: 8415–00–FAB–5749—ACU Trouser, XS–R
NSN: 8415–00–FAB–5752—ACU Trouser, S–S
NSN: 8415–00–FAB–5751—ACU Trouser, S–XS
NSN: 8415–00–FAB–5754—ACU Trouser, S–L
NSN: 8415–00–FAB–5755—ACU Trouser, S–XL
NSN: 8415–00–FAB–5756—ACU Trouser, M–XS
NSN: 8415–00–FAB–5753—ACU Trouser, S–R
NSN: 8415–00–FAB–5757—ACU Trouser, M–S
NSN: 8415–00–FAB–5750—ACU Trouser, XS–L
NSN: 8415–00–FAB–5758—ACU Trouser, M–R
NSN: 8415–00–FAB–5759—ACU Trouser, M–L
NSN: 8415–00–FAB–5760—ACU Trouser, M–XL
NSN: 8415–00–FAB–5761—ACU Trouser, L–S
NSN: 8415–00–FAB–5763—ACU Trouser, L–L
NSN: 8415–00–FAB–5762—ACU Trouser, L–R
NSN: 8415–00–FAB–5764—ACU Trouser, L–XL
NSN: 8415–00–FAB–5765—ACU Trouser, XL–S
NSN: 8415–00–FAB–5766—ACU Trouser, XL–R
NSN: 8415–00–FAB–5767—ACU Trouser, XL–L
NSN: 8415–00–FAB–5768—ACU Trouser, XXL–R
NSN: 8415–00–FAB–4667—ACU Trouser, S–XXL
NSN: 8415–00–FAB–4674—ACU Trouser, M–XXL
NSN: 8415–00–FAB–8074—ACU Trouser, L–XS
NSN: 8415–00–FAB–4673—ACU Trouser, L–XXL
NSN: 8415–00–FAB–4672—ACU Trouser, XL–XS
NSN: 8415–00–FAB–4671—ACU Trouser, XL–XL
NSN: 8415–00–FAB–4669—ACU Trouser, XL–XXL
NSN: 8415–00–FAB–4668—ACU Trouser, XXL–XS
NSN: 8415–00–FAB–8075—ACU Trouser, XXL–S
NSN: 8415–00–FAB–8080—ACU Trouser, XXL–L
NSN: 8415–00–FAB–4650—ACU Trouser, XXL–XL
NSN: 8415–00–FAB–4649—ACU Trouser, XXL–XXL
NSN: 8405–00–FAB–4220—HDU Trouser, 28X32
NSN: 8405–00–FAB–4221—HDU Trouser, 30X28
NSN: 8405–00–FAB–4222—HDU Trouser,

30X30
NSN: 8405–00–FAB–4223—HDU Trouser, 30X32
NSN: 8405–00–FAB–4224—HDU Trouser, 30X34
NSN: 8405–00–FAB–4225—HDU Trouser, 30X36
NSN: 8405–00–FAB–4226—HDU Trouser, 32X28
NSN: 8405–00–FAB–4227—HDU Trouser, 32X30
NSN: 8405–00–FAB–4228—HDU Trouser, 32X32
NSN: 8405–00–FAB–4229—HDU Trouser, 32X34
NSN: 8405–00–FAB–4230—HDU Trouser, 32X36
NSN: 8405–00–FAB–4231—HDU Trouser, 34X28
NSN: 8405–00–FAB–4232—HDU Trouser, 34X30
NSN: 8405–00–FAB–4233—HDU Trouser, 34X32
NSN: 8405–00–FAB–4234—HDU Trouser, 34X34
NSN: 8405–00–FAB–4235—HDU Trouser, 34X36
NSN: 8405–00–FAB–4236—HDU Trouser, 36X28
NSN: 8405–00–FAB–4237—HDU Trouser, 36X30
NSN: 8405–00–FAB–4238—HDU Trouser, 36X32
NSN: 8405–00–FAB–4239—HDU Trouser, 36X34
NSN: 8405–00–FAB–4240—HDU Trouser, 36X36
NSN: 8405–00–FAB–4241—HDU Trouser, 38X28
NSN: 8405–00–FAB–4242—HDU Trouser, 38X30
NSN: 8405–00–FAB–4243—HDU Trouser, 38X32
NSN: 8405–00–FAB–4244—HDU Trouser, 38X34
NSN: 8405–00–FAB–4245—HDU Trouser, 38X36
NSN: 8405–00–FAB–4246—HDU Trouser, 40X28
NSN: 8405–00–FAB–4247—HDU Trouser, 40X30
NSN: 8405–00–FAB–4248—HDU Trouser, 40X32
NSN: 8405–00–FAB–4249—HDU Trouser, 40X34
NSN: 8405–00–FAB–4250—HDU Trouser, 40X36
NSN: 8405–00–FAB–4251—HDU Trouser, 42X28
NSN: 8405–00–FAB–4252—HDU Trouser, 42X30
NSN: 8405–00–FAB–4253—HDU Trouser, 42X32
NSN: 8405–00–FAB–4254—HDU Trouser, 42X34
NSN: 8405–00–FAB–4255—HDU Trouser, 42X36
NSN: 8405–00–FAB–4256—HDU Trouser, 44X28
NSN: 8405–00–FAB–4257—HDU Trouser, 44X30
NSN: 8405–00–FAB–4258—HDU Trouser, 44X32
NSN: 8405–00–FAB–4259—HDU Trouser, 44X34
NSN: 8405–00–FAB–4260—HDU Trouser, 44X36
NSN: 8405–00–FAB–4261—HDU Trouser, 46X28
NSN: 8405–00–FAB–4262—HDU Trouser, 46X30
NSN: 8405–00–FAB–4263—HDU Trouser, 46X32
NSN: 8405–00–FAB–4264—HDU Trouser, 46X34
NSN: 8405–00–FAB–4265—HDU Trouser, 46X36
NSN: 8470–00–FAB–7241—IOTV Front, X–SM
NSN: 8470–00–FAB–7242—IOTV Front, SM
NSN: 8470–00–FAB–7243—IOTV Front, MD–REG
NSN: 8470–00–FAB–7244—IOTV Front, MD–LNG
NSN: 8470–00–FAB–7262—IOTV Front, LG–REG
NSN: 8470–00–FAB–7245—IOTV Front, LG–LNG
NSN: 8470–00–FAB–7246—IOTV Front, XL–REG
NSN: 8470–00–FAB–7247—IOTV Front, XL–LNG
NSN: 8470–00–FAB–7248—IOTV Front, 2XL
NSN: 8470–00–FAB–7249—IOTV Front, 3XL
NSN: 8470–00–FAB–7250—IOTV Front, 4XL
NSN: 8470–00–FAB–7251—IOTV Back, X–SM
NSN: 8470–00–FAB–7252—IOTV Back, SM
NSN: 8470–00–FAB–7253—IOTV Back, MD–REG
NSN: 8470–00–FAB–7254—IOTV Back, MD–LNG
NSN: 8470–00–FAB–7255—IOTV Back, LG–REG
NSN: 8470–00–FAB–7256—IOTV Back, LG–LNG
NSN: 8470–00–FAB–7257—IOTV Back, XL–REG
NSN: 8470–00–FAB–7258—IOTV Back, XL–LNG
NSN: 8470–00–FAB–7259—IOTV Back, 2XL
NSN: 8470–00–FAB–7260—IOTV Back, 3XL
NSN: 8470–00–FAB–7261—IOTV Back, 4XL
NSN: 8470–00–FAB–2391—OTV Vest, Desert, Small
NSN: 8470–00–FAB–2392—OTV Vest, Desert, Medium
NSN: 8470–00–FAB–2393—OTV Vest, Desert, Large
NSN: 8470–00–FAB–2394—OTV Vest, Desert, X–Large
NSN: 8470–00–FAB–0756—OTV Vest, Desert, 2X–Large
NSN: 8470–00–FAB–0881—OTV Vest, Desert, 3X–Large
NSN: 8470–00–FAB–2283—OTV Throat, Desert
NSN: 8470–00–FAB–2279—OTV Groin, Desert, Small–Medium
NSN: 8470–00–FAB–2237—OTV Groin, Desert, Large–3XLarge
NSN: 8470–00–FAB–5670—OTV Vest, Woodland, X–Small
NSN: 8470–00–FAB–5671—OTV Vest, Woodland, Small
NSN: 8470–00–FAB–5669—OTV Vest, Woodland, Medium
NSN: 8470–00–FAB–5668—OTV Vest, Woodland, Large
NSN: 8470–00–FAB–5667—OTV Vest, Woodland, X–Large
NSN: 8470–00–FAB–4440—OTV Vest, Woodland, 2X–Large
NSN: 8470–00–FAB–4441—OTV Vest, Woodland, 3X–Large
NSN: 8470–00–FAB–4442—OTV Vest, Woodland, 4X–Large
NSN: 8470–00–FAB–0882—OTV Throat, Woodland
NSN: 8470–00–FAB–0883—OTV Groin, Woodland, XSmall–Medium
NSN: 8470–00–FAB–0884—OTV Groin, Woodland, Large–4XLarge
NSN: 8470–00–FAB–3566—OTV Vest, Pantone, X–Small
NSN: 8470–00–FAB–3572—OTV Vest, Pantone, Small
NSN: 8470–00–FAB–3573—OTV Vest, Pantone, Medium
NSN: 8470–00–FAB–3571—OTV Vest, Pantone, Large
NSN: 8470–00–FAB–3570—OTV Vest, Pantone, X–Large
NSN: 8470–00–FAB–3569—OTV Vest, Pantone, 2X–Large
NSN: 8470–00–FAB–3568—OTV Vest, Pantone, 3X–Large
NSN: 8470–00–FAB–3567—OTV Vest, Pantone, 4X–Large
NSN: 8470–00–FAB–3624—OTV Throat, Pantone
NSN: 8470–00–FAB–3625—OTV Groin, Pantone, XSmall–Medium
NSN: 8470–00–FAB–3626—OTV Groin, Pantone, Large–4XLarge
NSN: 8470–00–FAB–2390—OTV Vest, Desert, XSmall
NSN: 8470–00–NIB–0031—Kit, Pre-Cut, Fabric, OTV Vest, Desert, 4X
NSN: 8415–00–FAB–4705—Army IPFU Jacket, XS–S
NSN: 8415–00–FAB–4714—Army IPFU Jacket, XS–R
NSN: 8415–00–FAB–4712—Army IPFU Jacket, XS–L
NSN: 8415–00–FAB–4706—Army IPFU Jacket, S–S
NSN: 8415–00–FAB–4715—Army IPFU Jacket, S–R
NSN: 8415–00–FAB–4713—Army IPFU Jacket, S–L
NSN: 8415–00–FAB–4707—Army IPFU Jacket, M–S
NSN: 8415–00–FAB–4716—Army IPFU Jacket, M–R
NSN: 8415–00–FAB–4721—Army IPFU Jacket, M–L
NSN: 8415–00–FAB–4708—Army IPFU Jacket, L–S
NSN: 8415–00–FAB–4717—Army IPFU Jacket, L–R
NSN: 8415–00–FAB–4722—Army IPFU Jacket, L–L
NSN: 8415–00–FAB–4709—Army IPFU Jacket, XL–S
NSN: 8415–00–FAB–4718—Army IPFU Jacket, XL–R
NSN: 8415–00–FAB–4723—Army IPFU Jacket, XL–L
NSN: 8415–00–FAB–4710—Army IPFU Jacket, 2XL–S
NSN: 8415–00–FAB–4719—Army IPFU Jacket, 2XL–R
NSN: 8415–00–FAB–4724—Army IPFU Jacket, 2XL–L
NSN: 8415–00–FAB–4711—Army IPFU Jacket, 3XL–S
NSN: 8415–00–FAB–4720—Army IPFU

Jacket, 3XL–R
NSN: 8415–00–FAB–4725—Army IPFU Jacket, 3XL–L
NSN: 8415–00–NIB–0858—Army IPFU Jacket (w/Digital Reflective), XS–S
NSN: 8415–00–NIB–0859—Army IPFU Jacket (w/Digital Reflective), XS–R
NSN: 8415–00–NIB–0860—Army IPFU Jacket (w/Digital Reflective), XS–L
NSN: 8415–00–NIB–0861—Army IPFU Jacket (w/Digital Reflective), S–S
NSN: 8415–00–NIB–0862—Army IPFU Jacket (w/Digital Reflective), S–R
NSN: 8415–00–NIB–0863—Army IPFU Jacket (w/Digital Reflective), S–L
NSN: 8415–00–NIB–0864—Army IPFU Jacket (w/Digital Reflective), M–S
NSN: 8415–00–NIB–0865—Army IPFU Jacket (w/Digital Reflective), M–R
NSN: 8415–00–NIB–0866—Army IPFU Jacket (w/Digital Reflective), M–L
NSN: 8415–00–NIB–0867—Army IPFU Jacket (w/Digital Reflective), L–S
NSN: 8415–00–NIB–0868—Army IPFU Jacket (w/Digital Reflective), L–R
NSN: 8415–00–NIB–0869—Army IPFU Jacket (w/Digital Reflective), L–L
NSN: 8415–00–NIB–0870—Army IPFU Jacket (w/Digital Reflective), XL–S
NSN: 8415–00–NIB–0871—Army IPFU Jacket (w/Digital Reflective), XL–R
NSN: 8415–00–NIB–0872—Army IPFU Jacket (w/Digital Reflective), XL–L
NSN: 8415–00–NIB–0873—Army IPFU Jacket (w/Digital Reflective), 2XL–S
NSN: 8415–00–NIB–0874—Army IPFU Jacket (w/Digital Reflective), 2XL–R
NSN: 8415–00–NIB–0875—Army IPFU Jacket (w/Digital Reflective), 2XL–L
NSN: 8415–00–NIB–0876—Army IPFU Jacket (w/Digital Reflective), 3XL–S
NSN: 8415–00–NIB–0877—Army IPFU Jacket (w/Digital Reflective), 3XL–R
NSN: 8415–00–NIB–0878—Army IPFU Jacket (w/Digital Reflective), 3XL–L
NSN: 8415–00–FAB–5407—Army IPFU Pants, L–R
NSN: 8415–00–FAB–5416—Army IPFU Pants, XL–R
NSN: 8415–00–FAB–5401—Army IPFU Pants, 2XL–R
NSN: 8415–00–FAB–5404—Army IPFU Pants, 3XL–R
NSN: 8415–00–FAB–5412—Army IPFU Pants, S–L
NSN: 8415–00–FAB–5409—Army IPFU Pants, M–L
NSN: 8415–00–FAB–5406—Army IPFU Pants, L–L
NSN: 8415–00–FAB–5415—Army IPFU Pants, XL–L
NSN: 8415–00–FAB–5400—Army IPFU Pants, 2XL–L
NSN: 8415–00–FAB–5403—Army IPFU Pants, 3XL–L
NSN: 8415–00–FAB–5420—Army IPFU Pants, XS–S
NSN: 8415–00–FAB–5414—Army IPFU Pants, S–S
NSN: 8415–00–FAB–5411—Army IPFU Pants, M–S
NSN: 8415–00–FAB–5408—Army IPFU Pants, L–S
NSN: 8415–00–FAB–5417—Army IPFU Pants, XL–S
NSN: 8415–00–FAB–5402—Army IPFU Pants, 2XL–S
NSN: 8415–00–FAB–5405—Army IPFU Pants, 3XL–S
NSN: 8415–00–FAB–5419—Army IPFU Pants, XS–R
NSN: 8415–00–FAB–5413—Army IPFU Pants, SS–R
NSN: 8415–00–FAB–5410—Army IPFU Pants, M–R
NPA: Blind Industries & Services of Maryland, Baltimore, MD
Contracting Activity: Dept of Justice, Federal Prison System, Unicor, Washington, DC
COVERAGE: C–List for 100% of the requirements of UNICOR as aggregated by Federal Prison Industries.
NSN: 7195–00–NIB–0018—Foot Rest, Ergonomic Adjustable
NSN: 7195–00–NIB–0019—Foot Rest, Ergonomic Adjustable
NSN: 7110–00–NIB–0063—Monitor Arm, Column Mount, Ergonomic
COVERAGE: A–List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7110–00–NIB–0064—Double Monitor Arm, Column Mount, Ergonomic
COVERAGE: B–List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: The Chicago Lighthouse for People Who Are Blind or Visually Impaired, Chicago, IL
Contracting Activity: Federal Acquisition Service, GSA/FSS Household and Industrial Furniture, Arlington, VA
NSN: 7530–00–NIB–0921—Thermal Paper, Calculator and Printing Machine
COVERAGE: A–List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7530–00–NIB–0922—Thermal Paper Rolls, Cash Register/Point of Sale
NSN: 7530–00–NIB–0923—Thermal Paper Roll
COVERAGE: B–List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: Cincinnati Association for the Blind, Cincinnati, OH
Contracting Activity: Federal Acquisition Service, GSA/FSS OFC SUP CTR—Paper Products, New York, NY
NSN: 4510–01–426–4187—SKILCRAFT–Zep Meter Mist 3000 Plus Dispenser
NPA: Envision, Inc., Wichita, KS
Contracting Activity: Federal Acquisition Service, GSA/FAS Southwest Supply Center (QSDAC), Fort Worth, TX
COVERAGE: A–List for the Total Government Requirement as aggregated by the General Services Administration.

SKILCRAFT–Zep Meter Mist Refill

NSN: 6840–01–368–4785
NSN: 6840–01–368–4787
NSN: 6840–01–368–4789
NSN: 6840–01–425–8232
NSN: 6840–01–429–5864
NPA: Lighthouse for the Blind, St. Louis, MO
Contracting Activity: Federal Acquisition Service, GSA/FAS Southwest Supply Center (QSDAC), Fort Worth, TX
COVERAGE: A–List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 9905–00–NIB–0046—Wet Floor Sign
NPA: New York City Industries for the Blind, Inc., Brooklyn, NY
Contracting Activity: Federal Acquisition Service, GSA/FAS Southwest Supply Center (QSDAC), Fort Worth, TX
COVERAGE: A–List for the Total Government Requirement as aggregated by the General Services Administration.

Services

Service Type/Location: Base Operations Support Service, Joint Base Andrews Naval Air Facility, Washington, DC
NPA: Davis Memorial Goodwill Industries, Washington, DC
Contracting Activity: Joint Base Andrews Naval Air Facility, 316th Contracting Squadron, Washington, DC
Service Type/Location: Custodial Service, Hickam Air Force Base, Hickam Air Force Base, HI
NPA: Opportunities for the Retarded, Inc., Wahiawa, HI
Contracting Activity: Dept of the Air Force, FA5215 15th Contracting Squadron/LGC, Hickam Air Force Base, HI
Service Type/Location: Janitorial Service, Rescue 21 Project Residence Office (PRO), Douglas, AK
NPA: REACH, Inc., Juneau, AK
Contracting Activity: Dept of Homeland Security, U.S. Coast Guard, Washington, DC
Service Type/Location: Laundry Service, USDA National Centers for Animal Health, 1920 Dayton Avenue, Ames, IA
NPA: Genesis Development, Jefferson, IA
Contracting Agency: U.S. Dept. of Agriculture, Animal and Plant Health Inspection Service, Minneapolis, MN
Service Type/Location: Medical Transcription Service, VA VISN 20 Portland OR VA Medical Center (offsite location: 3602 West Dallas, Houston, TX)
NPA: Lighthouse for the Blind of Houston, Houston, TX
Contracting Activity: Department of Veterans Affairs, VA Medical Center, Boise, ID
Service Type/Location: Custodial Service, Bureau of Land Management, 1046 Gunston Road, Lorton, VA
NPA: MVLE, Inc., Springfield, VA
Contracting Activity: Dept of the Interior, Bureau of Land Management, ES–EASTERN States office, Springfield, VA
Service Type/Location: Custodial Service, Marine Corps Air Station Cherry Point, NC
NPA: Coastal Enterprises of Jacksonville, Inc., Jacksonville, NC
Contracting Activity: Dept of the Navy, Naval FAC Engineering CMD MID LANT, Norfolk, VA
Service Type/Location: Grounds Maintenance, 130th Airlift Squadron, 1679 Coonskin Dr Unit #36, Charleston, WV
NPA: Goodwill Industries of Kanawha Valley, Inc., Charleston, WV
Contracting Activity: Dept of the Army, XRAW8BS WV USPF0 SPT SEC, Buckhannon, WV

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. If approved, the action may result in authorizing small entities to furnish a product and a service to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with a product and a service proposed for deletion from the Procurement List.

End of Certification

The following product and service are proposed for deletion from the Procurement List:

Product

Paper Holder & Micro Note Holder

NSN: 7510–01–484–0011
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA
Contracting Activity: Federal Acquisition Service, GSA/FSS OFC SUP CTR–Paper Products, New York, NY

Service

Service Type/Location: Facilities Maintenance, NASA Dryden Flight Research Center, Edwards, CA
NPA: PRIDE Industries, Roseville, CA
Contracting Activity: National Aeronautics and Space Administration, NASA Headquarters, Washington, DC

Patricia Briscoe,

Deputy Director, Business Operations.

[FR Doc. 2010–15489 Filed 6–24–10; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice; Information Collection 3038–0019, Stocks of Grain in Licensed Warehouses.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected costs and burden; it includes the actual data collection instruments [if any].

DATES: Comments must be submitted on or before July 26, 2010.

FOR FURTHER INFORMATION OR A COPY CONTACT: Gary Martinaitis at CFTC, (202) 418–5209; FAX: (202) 418–5527; e-mail: *gmartinaitis@cftc.gov* and refer to OMB Control No. 3038–0019.

SUPPLEMENTARY INFORMATION:

Title: Stocks of Grain in Licensed Warehouses, OMB Control No. 3038–0019.

This is a request for extension of a currently approved information collection.

Abstract: Under Commission Regulation 1.44, 17 CFR 1.44, contract markets must require operators of warehouses regular for delivery to keep records on stocks of commodities and make reports on call by the Commission. The regulation is designed to assist the Commission in prevention of market manipulation and is promulgated pursuant to the Commission's rulemaking authority contained in section 5a of the Commodity Exchange Act, 7 U.S.C. 7a.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the CFTC's regulations were published on December 30, 1981. *See* 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on April 13, 2010 (75 FR 18824).

Burden statement: The respondent burden for this collection is estimated to average 1 hour per response. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 3.

Estimated number of responses: 156.

Estimated total annual burden on respondents: 156 hours.

Frequency of collection: Weekly.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038–0019 in any correspondence.

Gary Martinaitis, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581 and Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Office for CFTC, 725 17th Street, Washington, DC 20503.

Issued in Washington, DC, on June 21, 2010.

David A. Stawick,

Secretary of the Commission.

[FR Doc. 2010–15377 Filed 6–24–10; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Draft Environmental Impact Statement Addressing Campus Development at Fort Meade, MD

AGENCY: Department of Defense (DoD).

ACTION: Notice of availability; notice of public meeting; request for comments.

SUMMARY: The Department of Defense (DOD) announces the availability of the Draft Environmental Impact Statement (EIS) as part of the environmental planning process for a Campus Development Project at Fort George G. Meade, Maryland (hereafter referred to as Fort Meade). The DOD proposes the development of a portion of Fort Meade (referred to as "Site M") as an operational complex and to construct and operate consolidated facilities to meet the National Security Agency's (NSA) continually evolving requirements and for Intelligence Community use. The purpose of the proposed action is to provide facilities that are fully-supportive of the Intelligence Community's mission. The action is driven by the need to co-locate key partnering organizations to ensure required capabilities for current and future missions are achieved.

This notice announces a 45-day comment period and provides information on how to participate in the public review process. The public comment period for the Draft EIS will officially end 45 days after publication of U.S. Environmental Protection Agency's Notice of Availability in the **Federal Register**.

DATES: There will be an open house beginning at 4:30 p.m. followed by a public meeting from 5 p.m. to 7 p.m. on July 21, 2010 (*see* **ADDRESSES** for meeting location). The public meeting

may end earlier or later than the stated time depending on the number of persons wishing to speak. All materials that are submitted in response to the Draft EIS should be received by August 13, 2010, to provide sufficient time to be considered in preparation of the Final EIS.

ADDRESSES: Copies of the Draft EIS are available for your review at the Fort Meade Main Post Library, 4418 Llewellyn Avenue, Fort Meade, MD 20755. You may also call (301) 688–2970 or send an e-mail to *CampusEIS@hdrinc.com* to request a copy of the Draft EIS.

The open house and scoping meeting will be held at the Fort Meade Middle School, 1103 26th Street, Fort Meade, Maryland 20755. Oral and written comments will be accepted at the scoping meeting. You can also submit written comments to "Campus Development EIS" c/o HDR|e²M, 2751 Prosperity Avenue, Suite 200, Fairfax, VA 22031 or submitted by e-mail to *CampusEIS@hdrinc.com.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Williams at (301) 688–2970, or e-mail *jdwill2@nsa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The NSA is a tenant DOD agency on Fort Meade. NSA is a high-technology organization that is on the frontier of communications and data processing. In order to meet evolving mission requirements, the development of a modern operational complex is needed at the NSA campus on Fort Meade.

Proposed Action and Alternatives: The Campus Development Project was initiated to provide a modern operational complex to meet the evolving mission requirements of NSA and the Intelligence Community. Development is proposed for a portion of Fort Meade (referred to as "Site M") adjacent to the NSA campus. Site M is divided into northern (Site M–1, 137 acres) and southern (Site M–2, 90 acres) portions. DOD proposes that development of Site M occur in three option phases over a horizon of approximately 20 years.

• *Proposed Action (Phase I).* Development would occur in the near term (approximately 2012 to 2014) on the eastern half of Site M–1, supporting 1.8 million square feet (ft²) of facilities for NSA to consolidate mission elements, enabling services, and support services across the campus based on function; servicing the need for more collaborative environment and optimal adjacencies, including associated infrastructure (*e.g.,* electrical substation and generator plants providing 50 megawatts of electricity) and administrative functions for up to 6,500 personnel. This phase would also include a steam and chilled water plant, water storage tower, and electrical substations and generator facilities capable of supporting the entire operational complex on Site M.

• *Alternative 1 (Phases I and II).* Alternative 1 would include the implementation of the Proposed Action (Phase I) along with Phase II. Phase II would occur in the mid-term (approximately 2020) on the western half of Site M–1, supporting 1.2 million ft² of administrative facilities.

• *Alternative 2 (Phases I, II, and III).* Alternative 2 would include the implementation of the Proposed Action (Phase I) along with Phases II and III. Development would occur on Site M–2 in the long term (approximately 2029), supporting an additional 2.8 million ft² of administrative facilities, bringing built space to 5.8 million ft² for up to 11,000 personnel.

Alternatives identified include each of the development phases identified above, as well as three options for redundant emergency backup power generation and various pollution control systems. The No Action Alternative (not undertaking the Campus Development Project) will also be analyzed in detail.

Summary of Environmental Impacts: The level of potential environmental impacts resulting from the Proposed Action and alternatives would primarily be dependent on the alternative ultimately selected. Environmental impacts would generally be more adverse for Alternatives 1 and 2 than for the Proposed Action due to the increase in building footprint and the number of additional personnel associated with the alternatives.

Generally, construction and demolition activities would be expected to result in some amount of ground disturbance. Short-term adverse on-site impacts on soil and water resources as a result of sedimentation, erosion, and storm water runoff are unavoidable. Construction and demolition activities also generate solid waste. These kinds of impacts would be expected regardless of the alternative chosen. Long-term operation of the complex would be expected to result in negligible to moderate impacts on land use, transportation, noise, air quality, biological resources, infrastructure, hazardous materials and waste, and socioeconomic resources. Potential significant impacts on cultural resources could occur under Alternative 2 if potentially historic properties are not treated as a design constraint and avoided.

Best Management Practices and Mitigation Measures. The Proposed Action has the potential to result in adverse environmental impacts. The Proposed Action includes best management practices, mitigation measures, and design concepts to avoid adverse impacts to the extent practicable. Unavoidable impacts would be minimized or compensated for, to the extent practicable. In accordance with Council on Environmental Quality regulations, mitigation measures must be considered for adverse environmental impacts. Once a particular impact associated with a proposed action is considered significant, then mitigation measures must be developed where it is feasible to do so.

Copies of the Draft EIS are available for public review at local repositories and by request (*see* **ADDRESSES**). The DOD invites public and agency input on the Draft EIS. Please submit comments and materials during the 45-day public review period to allow sufficient time for consideration in development of the Final EIS (*see* **DATES**).

Dated: June 22, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–15457 Filed 6–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents

AGENCY: Office of the Assistant Secretary of Defense (Homeland Defense and America's Security Affairs), DoD.

ACTION: Notice of multiple meetings by audio teleconference.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities after Certain Incidents (hereinafter referred to as the Advisory Panel) will take place by audio teleconference on July 7, 8, 9, and 12, 2010.

DATES: The meetings will be held:

Wednesday, July 7, 2010, from 11:00 a.m. to 5:30 p.m., Eastern Daylight Time (hereinafter referred to as EDT).

Thursday, July 8, 2010, from 11:00 a.m. to 5:30 p.m., EDT.

Friday, July 9, 2010, from 11:00 a.m. to 5:30 p.m., EDT.

Monday, July 12, 2010, from 11:00 a.m. to 5:30 p.m., EDT.

ADDRESSES: The meetings will be held at the RAND Corporation, 1200 South Hayes Street, Arlington, Virginia 22202, 4th floor conference facilities.

FOR FURTHER INFORMATION CONTACT:

Advisory Panel's Designated Federal Officer

Catherine Polmateer, telephone: 703–697–6370, OASD(HD&ASA), Resources Integration, 2600 Defense Pentagon, Washington, DC 20301–2600, e-mail: *Catherine.Polmateer@osd.mil.*

Advisory Panel's Points of Contact at the Federally Funded Research and Development Center (FFRDC)

Andrew Morral, Principal Investigator, telephone 703–413–1100, x5119, e-mail: *morral@rand.org;* The RAND Corporation, 1200 South Hayes Street, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: Due to internal DoD difficulties, beyond the control of the Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents or its Designated Federal Officer, the Government was unable to process the **Federal Register** notice for the July 7, 8, and 9, 2010 meetings of the Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents as required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Purpose of the Meetings

The panel will discuss, via audio teleconference, preliminary findings, conclusions, and recommendations, based on its activities to date, based on its congressionally-mandated tasks.

Agenda

The only agenda item will be as stated in the Purpose section above.

Public's Accessibility to the Meeting

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. Persons attending will be permitted to listen to the audio discussion of the panel members. (Note: Members of the public who choose to attend the meeting should allow approximately 15 minutes to clear building security on the ground floor (Hayes Street entrance) and RAND security (4th floor reception area)).

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972 (FACA), the public or interested organizations may submit written statements to the Advisory Panel about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of a planned meeting of the Advisory Panel.

All written statements shall be submitted to the Designated Federal Officer for the Advisory Panel, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Designated Federal Officer is provided in this notice (*see* **FOR FURTHER INFORMATION CONTACT**) or can be obtained from the GSA's FACA Database: *https://www.fido.gov/facadatabase/public.asp.*

Written statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed under **FOR FURTHER INFORMATION CONTACT** no later than 11 a.m., EDT, seven calendar days prior to the date of each meeting (*see* **DATES**). Written statements received after these dates may not be provided to or considered by the Advisory Panel until its next meeting.

The Designated Federal Officer will review all timely submissions with the Advisory Panel Chairperson and ensure they are provided to all members of the Advisory Panel before the meeting that is the subject of this notice.

All written statements received by the Designated Federal Officer will be retained as part of the committee's official records. In addition, statements timely submitted in response to a stated agenda of a planned meeting and provided to committee members in preparation for a meeting, will be made available to the public during the meeting and posted to the GSA's FACA Database.

Oral Statements

In addition to written statements, and time permitting, the Chairperson of the Advisory Panel may allow Oral Statements by the public to the Members of the Advisory Panel. Any person seeking to address orally the Advisory Panel must submit a request to the Designated Federal Officer, no later than seven calendar days prior to the date of each meeting (*see* **DATES**). Oral statements will be limited to five minutes (or less depending on time available).

The Designated Federal Officer will provide timekeeping for oral statements and will notify the Chairperson when a presenter has reached allotted time.

Dated: June 22, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–15460 Filed 6–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Advisory Council on Dependents' Education

AGENCY: Department of Defense Education Activity (DoDEA).

ACTION: Open meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Advisory Council on Dependents' Education will meet on September 8, 2010, in Arlington, VA.

DATES: The meeting will be held on Wednesday, September 8, 2010, from 8 a.m. to 3 p.m., Eastern Daylight Standard Time.

ADDRESSES: The meeting will be held at DoDEA Headquarters, 4040 N. Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: *Committee's Point of Contact:* Ms. Leesa Rompre, tel. (703) 588–3128, 4040 North Fairfax Drive, Arlington, VA 22203, e-mail: *Leesa.Rompre@hq.dodea.edu.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

Recommend to the Director, DoDEA, general policies for the operation of the Department of Defense Dependents Schools (DoDDS); to provide the Director with information about effective educational programs and practices that should be considered by DoDDS; and to perform other tasks as may be required by the Secretary of Defense.

Agenda

The meeting agenda will be the current operational qualities of schools, the continuous improvement processes, and other educational matters.

Public's Accessibility to the Meeting

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and the availability of space, this meeting is open to the public. Seating is on a first-come basis. Appropriate government issued identification will be required to enter the meeting facility, which is a U.S. Military managed facility.

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Advisory Council on Dependents' Education about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of the planned meeting of the Advisory Council on Dependents' Education.

All written statements shall be submitted to the Designated Federal Officer for the Advisory Council on Dependents' Education and this individual will ensure that the written statements are provided to the membership for their consideration. For the next meeting of the Advisory Council on Dependents' Education, Dr. Patrick Dworakowski, 4040 North Fairfax Drive, Arlington, VA 22203; *Patrick.Dworakowski@hq.dodea.edu,* (703) 588–3111, will be acting in the capacity of the Designated Federal Officer for this committee.

Statements being submitted in response to the agenda mentioned in this notice must be received by the Acting Designated Federal Officer at the address listed above at least 14 calendar days prior to the meeting, which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Advisory Council on Dependents' Education until its next meeting.

The Acting Designated Federal Officer will review all timely submissions with the Advisory Council on Dependents' Education Chairpersons and ensure they are provided to all members of the Advisory Council on Dependents' Education before the meeting that is the subject of this notice.

Oral Statements

Pursuant to 41 CFR 102–3.140(d), time will be allotted for public comments to the Advisory Council on Dependents' Education. Individual comments will be limited to a maximum of five minutes duration. The total time allotted for public comments will not exceed thirty minutes.

Dated: June 22, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–15461 Filed 6–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Department of Defense Wage Committee

AGENCY: Department of Defense (DoD).

ACTION: Notice of a closed meeting.

SUMMARY: Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a closed meeting of the Department of Defense Wage Committee will be held on July 27, 2010, in Rosslyn, VA.

DATES: The meeting will be held on Tuesday, July 27, 2010, at 10 a.m.

ADDRESSES: The meeting will be held at 1400 Key Boulevard, Level A, Room A101, Rosslyn, VA 22209.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

SUPPLEMENTARY INFORMATION: Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meeting meets the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Dated: June 22, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–15462 Filed 6–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Meeting of the Uniform Formulary Beneficiary Advisory Panel; Correction

AGENCY: Assistant Secretary of Defense (Health Affairs), DoD.

ACTION: Notice of meeting; correction.

SUMMARY: On May 28, 2010, DoD published a notice (75 FR 30003) announcing a meeting of the Defense Science Board Task Force. That notice omitted one agenda item. All other aspects of the meeting agenda remain valid. This notice adds the omitted agenda topic.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Stacia Spridgen, Designated Federal Officer, Uniform Formulary Beneficiary Advisory Panel, 2450 Stanley Road, Suite 208, Ft. Sam Houston, TX 78234–6102; *Telephone:* (210) 295–1271; *Fax:* (210) 295–2789; *E-mail: Baprequests@Tma.Osd.Mil.*

SUPPLEMENTARY INFORMATION: Due to internal DoD difficulties beyond the control of the Uniform Formulary Beneficiary Advisory Panel or its Designated Federal Officer, the Government was unable to process the **Federal Register** notice for the June 24, 2010, meeting of the Uniform Formulary Beneficiary Advisory Panel as required by 41 CFR 102–3.150(a). Accordingly, the Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Correction

In the notice (FR Doc. 2010–12867) published on May 28, 2010 (75 FR 30003), make the following correction. On page 30003, in the first column, correct the paragraph under **SUPPLEMENTARY INFORMATION**, Meeting Agenda, by adding the following agenda topic: "review and comment on Qualaquin PA criteria."

Dated: June 22, 2010.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–15463 Filed 6–24–10; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Office of Inspector General, Department of Education.

ACTION: Notice of an altered system of records; correction.

SUMMARY: On Monday, June 14, 2010, we published in the **Federal Register** (75 FR 33608) a notice of an altered system of records to revise the system of records notice for the Investigative Files of the Inspector General (18–10–01), 68 FR 38154 (June 26, 2003). This document corrects errors in the June 14, 2010 notice.

On page 33609, in the first column, under **DATES**, correct the second paragraph to read:

The Department filed a report describing the altered system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, OMB on June 9, 2010. This altered system of records will become effective at the later date of—(1) the expiration of the 40-day period for OMB review on July 19, 2010 unless OMB waives ten days of its 40-day review period in which case on July 9, 2010, or (2) July 26, 2010, unless the system of records needs to be changed as a result of public comment or OMB review.

FOR FURTHER INFORMATION CONTACT: Shelley Shepherd, Assistant Counsel to the Inspector General, 400 Maryland Avenue, SW., PCP building, room 8166, Washington, DC 20202–1510. Telephone: (202) 245–7077.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF), on the Internet at the following site: *http://www.ed.gov/news/fedregister/index.html.* To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: June 22, 2010.

Kathleen S. Tighe,

Inspector General.

[FR Doc. 2010–15493 Filed 6–24–10; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection

AGENCY: Department of Energy.

ACTION: Notice and request for OMB review and comment.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995, the Department of Energy (DOE) invites public comment on a proposed emergency collection of information that DOE is developing to collect data on the status of activities, project progress, spend rates and performance metrics under the American Recovery and Reinvestment Act of 2009. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this collection must be received on or before July 9, 2010. Comments should be sent to the person listed in **ADDRESSES** below. All comments must be submitted electronically. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Matthew Dunne, *Matthew.Dunne@hq.doe.gov,* Advanced Research Projects Agency—Energy.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection guidance and/or collection instrument should be directed to Matthew Dunne at *ARPA-E-Counsel@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: This emergency information collection request contains: (1) *OMB No.:* New; (2) *Information Collection Request Title:* Advanced Research Projects Agency—Energy (ARPA–E); (3) *Type of Review:* Emergency; (4) *Purpose:* To collect data on the status of activities, project progress, jobs created and retained, spend rates and performance metrics under the American Recovery and Reinvestment Act of 2009. This will ensure adequate information is available to support sound project management and to meet the transparency and accountability associated with the American Recovery and Reinvestment Act. (5) *Annual Estimated Number of Respondents:* 100 (6) *Annual Estimated Number of Total Responses:* 1,200 (7) *Annual Estimated Number of Burden Hours:* 4,800. (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $523,200. (9) *Type of Respondents:* Recipients of American Recovery and Reinvestment Act funding.

An agency head or the Senior Official, or their designee, may request OMB to authorize emergency processing of submissions of collections of information.

(a) Any such request shall be accompanied by a written determination that:

(1) The collection of information:

(i) Is needed prior to the expiration of time periods established under this Part; and

(ii) is essential to the mission of the agency; and

(2) The agency cannot reasonably comply with the normal clearance procedures under this Part because:

(i) Public harm is reasonably likely to result if normal clearance procedures are followed;

(ii) an unanticipated event has occurred; or

(iii) the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information or is reasonably likely to cause a statutory or court ordered deadline to be missed.

(b) The agency shall state the time period within which OMB should approve or disapprove the collection of information.

Statutory Authority: America COMPETES Act (Pub. L. 110–69) establishes the Advanced Research Projects Agency—Energy (ARPA–E) under which DOE makes funds available to create transformational new energy technologies and systems through funding and managing research and development (R&D) efforts.

Issued in Washington, DC, on June 18, 2010.

Arun Majumdar,

Director of ARPA–E, Advanced Research Projects Agency—Energy (ARPA–E).

[FR Doc. 2010–15304 Filed 6–24–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–452–000]

Natural Gas Pipeline Company of America LLC; Notice of Application

June 17, 2010.

Take notice that on June 8, 2010, Natural Gas Pipeline Company of America LLC (Natural), 3250 Lacey Road, 7th Floor, Downers Grove, Illinois 60515–7918, filed in Docket Number CP10–452–000, pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA), an application to abandon two injection/withdrawal wells and appurtenant facilities in the Columbus City storage field, located in Louisa County, Iowa, and a certificate of public convenience and necessity to construct, and operate two replacement wells, increase the cumulative peak day deliverability in the Columbus City St. Peter reservoir from 45 MMcf/d to 55 MMcf/d, and provide an additional 0.5 Bcf of storage service from the Columbus City St. Peter reservoir. The total cost for the proposed facilities is $2,914,853 plus $300,000 for the proposed abandonment. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions regarding this Application should be directed to Bruce H. Newsome, Vice President, Natural Gas Pipeline Company of America, LLC, 3250 Lacey Road, 7th Floor, Downers Grove, Illinois 60515–7918, phone (630) 725–3070 or *bruce_newsome@kindermorgan.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: July 8, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–15384 Filed 6–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP10–456–000]

Tallulah Gas Storage LLC; Notice of Application

June 17, 2010.

Take notice that on June 11, 2010, Tallulah Gas Storage LLC (Petitioner), 10370 Richmond Avenue, Suite 510, Houston, TX 77042, filed in Docket No. CP10–456–000, a petition for Exemption of Temporary Acts and Operations from Certificate Requirements, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure, and section 7(c)(1)(B) of the Natural Gas Act (NGA), to perform specific temporary activity related to drill site preparation and the drilling of two stratigraphic test wells located in Madison Parish, Louisiana to determine the salt characteristics and the feasibility of developing the South Tallulah salt dome for natural gas storage and the feasibility of brine disposal, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to Mark Fullerton, Tallulah Gas Storage LLC, 10370 Richmond Avenue, Suite 510, Houston, TX 77042, or by calling (713) 403–6454 (telephone) or (713) 403–6461 (fax), *mfullerton@icon-ngs.com*, or to

Anita R.Wilson, John S. Decker, or Damien R. Lyster, Vinson & Elkins L.L.P., 1455 Pennsylvania Avenue, NW., Suite 600, Washington, DC 20004–1008, or by calling (202) 639–6599 (telephone) or (202) 879–8899 (fax), *jdecker@velaw.com*.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: July 1, 2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–15387 Filed 6–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12721–004]

Pepperell Hydro Company, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments and Motions To Intervene

June 17, 2010.

On March 9, 2010, the Pepperell Hydro Company, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the East Pepperell Project, located on the Nashua River in Middlesex County, Massachusetts. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of: (1) The existing 27-foot-high, 275-foot-long East Pepperell Dam; (2) an existing intake; (3) an existing 1,465-acre impoundment at a normal maximum water surface elevation of 199.8 feet above mean sea level (with 3-foot-high flashboards in place); (4) an existing 13-foot-diameter, 666-foot-long wood stave penstock; (5) a powerhouse containing three existing generating units and a new low-flow turbine generator located adjacent to the intake gates with a total installed capacity of 2,070 kilowatts; (6) an existing tailrace; (7) an existing switchyard; (8) an existing 7.5-mile-long, 69-kilovolt transmission line owned by National Grid; and (9) appurtenant facilities. The project would have an estimated average annual generation of approximately 8,123 megawatt-hours.

Applicant Contact: Peter B. Clark, Pepperell Hydro Company LLC, P.O. Box 149, 823 Bay Road, Hamilton, MA 01936, (978) 468–3999.

FERC Contact: Brandon Cherry, (202) 502–8328.

Deadline for filing comments or motions to intervene: 60 days from the issuance of this notice. Comments and motions to intervene may be filed electronically via the Internet. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the "eFiling" link. For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please

contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–12721) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–15385 Filed 6–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2503–143]

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests; Duke Energy Carolinas, LLC

June 17, 2010.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project use of project lands.

b. *Project No:* 2503–143.

c. *Date Filed:* June 4, 2010.

d. *Applicant:* Duke Energy Carolinas, LLC.

e. *Name of Project:* Keowee-Toxaway Project.

f. *Location:* The proposed non-project use is on Lake Keowee in Pickens County, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Joe Hall, Duke Energy Carolinas, LLC, P.O. Box 1006, Charlotte, NC 28201–1006; (704) 382–8576.

i. *FERC Contact:* Shana High, (202) 502–8674.

j. *Deadline for filing comments, motions to intervene, and protests:* July 19, 2010.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link. The Commission strongly encourages electronic filings.

To paper-file, an original and eight copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–2503–143) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* Duke Energy Carolinas, LLC requests Commission approval to grant The Cliffs at Lake Keowee II, LLC permission to construct a residential marina on project lands. The licensee requests approval to lease four areas totaling 1.88 acres for a courtesy ramp, an access ramp, and four cluster docks with a total of 58 docking locations. The application includes 500 feet of shoreline stabilization.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number (P–2503) excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3376 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–15388 Filed 6–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13679–000]

JD Products, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Competing Applications

June 18, 2010.

On March 2, 2010, JD Products, LLC (JD Products) filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the proposed San Onofre OWEG Electricity Farm Project (project). The proposed project would utilize 11,443 Ocean Wave Electricity Generation (OWEG) units, an experimental technology, with an estimated installed capacity of 3,186

megawatts. The requested project boundary comprises of approximately 2 square nautical miles of coastal waters and lands located along the coast of San Diego County, California, including portions of the San Onofre California State Park.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing or construction activities or to otherwise enter upon lands or waters owned by others without the owners' express permission.

Applicant Contact: Dr. Chong Hun Kim, PhD, JD Products, LLC., 16807 Woodridge Circle, Fountain Valley, CA 92708; (714) 767–7553; or via e-mail at *chong.kim@jdproductsllc.com.*

FERC Contact: Kenneth Hogan, (202) 502–8434, or via e-mail at: *Kenneth.hogan@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the "eFiling" link. For a simpler method of submitting text only comments, click on "Quick Comment." For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and eight copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13679) in the docket number field to access the document. For assistance, contact FERC Online Support.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–15393 Filed 6–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

June 17, 2010.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER97–4143–023; ER98–2075–028; ER98–542–025; ER07–1130–005.

Applicants: American Electric Power Service Corporation; CSW Energy Services, Inc.; Central & South West Services, Inc.; AEP Energy Partners, Inc.

Description: Notice of Change in Status of American Electric Power Service Corporation.

Filed Date: 06/17/2010.

Accession Number: 20100617–5085.

Comment Date: 5 p.m. Eastern Time on Thursday, July 08, 2010.

Docket Numbers: ER10–765–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corp's Response to the April 16, 2010 Letter requesting additional information regarding Proxy Demand Resource Tariff Amendment.

Filed Date: 05/17/2010.

Accession Number: 20100518–0003.

Comment Date: 5 p.m. Eastern Time on Monday, June 28, 2010.

Docket Numbers: ER10–1264–000.

Applicants: Arizona Public Service Company.

Description: Arizona Public Service Company submits an informational filing of its Annual Update of transmission service rates pursuant to the APS Open Access Transmission Tariff.

Filed Date: 05/17/2010.

Accession Number: 20100517–5061.

Comment Date: 5 p.m. Eastern Time on Thursday, June 24, 2010.

Docket Numbers: ER10–1452–000.

Applicants: Vitol Inc.

Description: Application of Vitol Inc for order accepting initial rate schedule, waiving regulations and granting blanket approvals.

Filed Date: 06/15/2010.

Accession Number: 20100616–0202.

Comment Date: 5 p.m. Eastern Time on Tuesday, July 06, 2010.

Docket Numbers: ER10–1462–000.

Applicants: Dominion Energy Brayton Point, LLC.

Description: Dominion Energy Brayton Point, LLC submits tariff filing per 35.12: Baseline, to be effective 6/30/2010.

Filed Date: 06/17/2010.

Accession Number: 20100617–5000.

Comment Date: 5 p.m. Eastern Time on Thursday, July 08, 2010.

Docket Numbers: ER10–1465–000.

Applicants: Tampa Electric Company.

Description: Tampa Electric Company submits tariff filing per 35.12: Baseline—All Requirements to be effective 6/17/2010.

Filed Date: 06/17/2010.

Accession Number: 20100617–5021.

Comment Date: 5 p.m. Eastern Time on Thursday, July 08, 2010.

Docket Numbers: ER10–1467–000.

Applicants: Ohio Edison Company.

Description: Ohio Edison Company submits tariff filing per 35: Compliance Baseline Filing to be effective 6/17/2010.

Filed Date: 06/17/2010.

Accession Number: 20100617–5056.

Comment Date: 5 p.m. Eastern Time on Thursday, July 08, 2010.

Docket Numbers: ER10–1468–000.

Applicants: The Toledo Edison Company.

Description: The Toledo Edison Company submits tariff filing per 35: Compliance Baseline Filing to be effective 6/17/2010.

Filed Date: 06/17/2010.

Accession Number: 20100617–5057.

Comment Date: 5 p.m. Eastern Time on Thursday, July 08, 2010.

Docket Numbers: ER10–1469–000.

Applicants: The Cleveland Electric Illuminating Comp.

Description: The Cleveland Electric Illuminating Company submits tariff filing per 35.12: MBR Baseline Filing to be effective 6/17/2010.

Filed Date: 06/17/2010.

Accession Number: 20100617–5060.

Comment Date: 5 p.m. Eastern Time on Thursday, July 08, 2010.

Docket Numbers: ER10–1473–000.

Applicants: Pennsylvania Power Company.

Description: Pennsylvania Power Company submits tariff filing per 35: Compliance Baseline Filing to be effective 6/17/2010.

Filed Date: 06/17/2010.

Accession Number: 20100617–5094.

Comment Date: 5 p.m. Eastern Time on Thursday, July 08, 2010.

Docket Numbers: ER10–1474–000.

Applicants: Metropolitan Edison Company.

Description: Metropolitan Edison Company submits tariff filing per 35: Compliance Baseline filing to be effective 6/17/2010.

Filed Date: 06/17/2010.

Accession Number: 20100617–5098.

Comment Date: 5 p.m. Eastern Time on Thursday, July 08, 2010.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR10–11–000.
Applicants: North American Electric Reliability Corporation.
Description: Supplement to North American Electric Reliability Corporation Petition for Approval of Revised Pro Forma Delegation Agreement, Revised Delegation Agreements with the Eight Regional Entities, and Amendments to the NERC Rules of Procedure.
Filed Date: 06/17/2010.
Accession Number: 20100617–5091.
Comment Date: 5 p.m. Eastern Time on Friday, July 09, 2010.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2010–15374 Filed 6–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG10–12–000; EG10–24–000]

Green County Operating Services, LLC; El Cajon Energy, LLC; Notice of Effectiveness of Exempt Wholesale Generator Status

June 18, 2010.

Take notice that during the month of April/May 2010, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–15392 Filed 6–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–1443–000]

Criterion Power Partners, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

June 17, 2010.

This is a supplemental notice in the above-referenced proceeding of Criterion Power partners, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 6, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–15386 Filed 6–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–1452–000]

Vitol Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

June 18, 2010.

This is a supplemental notice in the above-referenced proceeding of Vitol Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 7, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–15391 Filed 6–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD10–13–000]

Office of Energy Policy and Innovation; Request for Comments Regarding Rates, Accounting and Financial Reporting for New Electric Storage Technologies

June 11, 2010.

Dear Reader:

Pursuant to authority delegated to the Director, Office of Energy Policy and Innovation, under 18 CFR 375.315, comments are requested in the above-referenced docket regarding rates, accounting and financial reporting associated with services provided by electric storage technologies.[1]

Commission staff has been considering the growing interest in the use of non-traditional technologies to help meet the Nation's electricity needs. In particular, newer storage technologies like flywheels and chemical batteries have recently achieved technological maturity and are well into successful pilot stages and, in some cases, commercial operation. The roles of traditional generation, transmission, and distribution assets within the electric system are well understood and each has set method(s) of rate recovery, accounting and financial reporting. However, the same is not necessarily true of electric storage.

Under appropriate circumstances, storage can act like any of the traditional asset categories, and also like load. The only electricity storage technology that has been widely adopted to date, pumped storage hydropower, was generally built at a time when the majority of utility assets were constructed by vertically integrated load-serving utilities at retail ratepayer expense. In many parts of the country today, entities other than vertically integrated load-serving utilities have expressed interest in building and owning electric storage assets of varying sizes. Suggested business models range from traditional cost-of-service rates to competing in wholesale commodity trading; some are considering the possibility of multiple revenue streams which may blend both cost-of-service recovery for some costs with other costs being at risk in competitive wholesale market transactions. For all of these reasons, there is little case precedent to guide industry and a divergence in practice concerning how to develop rates and categorize electric storage costs for rate purposes.

Further, the Commission's accounting[2] and financial reporting requirements[3] currently do not contain specific accounting, functional classification, and related FERC Form No. 1 reporting requirements for new storage technologies. Under a cost-of-service ratemaking methodology, it is critical for companies to accurately and uniformly account and report financial information and data to facilitate the development and monitoring of rates. Without this information, it would be difficult for the Commission and others to determine the costs related to new storage technologies for cost-of-service rate purposes.

In order to better understand the various ways electric storage can be used, where each of those uses would fall within established jurisdictional boundaries, and the appropriate rate treatment, accounting classification, and reporting requirements for those uses, Commission staff seeks comment on the attached document regarding alternatives for categorizing and compensating storage services, and in particular ideas on how best to develop rate policies that accommodate the flexibility of storage, consistent with the Federal Power Act.[4] In addition, staff welcomes comments about any other aspects of these storage issues not specifically raised in the attachment.

Persons wishing to comment on the matters discussed herein should submit comments to the Commission no later than 45 days after the publication of this notice in the **Federal Register**.

[1] The statements herein do not necessarily reflect the views of the Commission.

[2] 18 CFR Part 101 (2009).

[3] 18 CFR Part 141 (2009).

[4] 16 U.S.C. 791a–825r (2006).

Comments should reference Docket No. AD10–13–000. For further information, please contact:

Rahim Amerkhail (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8266, *Rahim.Amerkhail@ferc.gov.*

Christopher Handy (Accounting Information), Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6496, *Christopher.Handy@ferc.gov.*

Thank you.

Jamie Simler,

Director, Office of Energy Policy & Innovation.

Attachment—Potential Approaches to Categorizing Storage Service for Compensation Purposes [5]

To determine what, if any, Commission-jurisdictional rate structure is appropriate for a given electric storage asset, staff has attempted to identify the chief electric system uses of storage. Staff believes that the chief electric storage uses implicating Commission jurisdiction are: (1) Maintaining service to unbundled transmission customers; (2) enhancing the value of generation; and (3) providing ancillary services.[6] Below staff reviews compensation structures available for these uses of storage, as well as the possibility of creating a stand-alone contract storage service. Staff seeks comment on the ideas contained throughout and in particular on the following issues:

- The circumstances in which a storage provider can be classified and receive compensation as a transmission asset.
- The circumstances, if any, under which a storage project should be permitted to receive compensation as transmission and also receive compensation for enhancing the value of merchant generation or providing ancillary services.[7]
- Whether creation of a stand-alone contract storage service should be considered and in particular, the possibility that a storage provider would provide only the service of electricity storage and leave it to its customers to determine how to use their contracted share of the storage device.
- Whether new accounting and reporting requirements need to be created in order to facilitate cost of service ratemaking for these new storage technologies.

I. The Uses of and Rate Treatment for Storage Facilities

1. Maintaining Service to Unbundled Transmission Customers

Some storage technologies can be used to support unbundled transmission service by supplying reactive power or possibly by acting as a virtual replacement transmission circuit in the event of a transmission line trip (by releasing energy to replace the transmitted energy that was cut-off by the line trip). The Commission recently clarified in response to a request by Western Grid that batteries used in this fashion are eligible for potential cost recovery through the California ISO transmission access charge, provided certain additional protections were in place as described in that order.[8] Accordingly, cost recovery through a jurisdictional transmission rate would be permissible under certain circumstances.

However, an identical storage facility could be installed on the distribution grid to similarly provide voltage support or serve as a virtual replacement distribution circuit. In that case, the storage asset could be considered to provide non-jurisdictional distribution service, leading to cost recovery through retail rates.

2. Enhancing the Value of Generation

Another possible use of a storage facility is to shift generation output from one period to another. Again, the appropriate rate treatment for a given storage facility will vary with its use. On the one hand, a generation owner could build a storage facility to enhance the market value of its generation by shifting off-peak generation to more lucrative peak periods. If the purpose is to enhance the market value of generation in this way, staff believes that storage facility costs should be recovered through the generator's wholesale energy charges alone (i.e., no separate storage charge).

On the other hand, a load-serving entity could install the same type of storage facility to shift generation output used to serve retail customers; for example to store excess off-peak wind generation for use in serving retail load later in the day. In that case, staff would view this as using storage to serve a non-jurisdictional retail purpose so that no Commission-jurisdictional cost recovery would be permissible. Instead, the load-serving entity would likely seek to include the cost of this storage facility in its bundled retail rates.

However, a load-serving entity may also use such storage facility to reduce demand as part of a wholesale market demand response program. In that case, the storage resource could seek to be compensated as a demand response resource.

3. Provision of Ancillary Services

Storage facilities also can be used to provide ancillary services, priced at cost or market consistent with the Commission's current rules and regulations. A storage provider wishing to provide these services would appear to enjoy all of the same options for doing so as are currently available to any other independent power marketer.

II. Using Storage Facilities for Multiple Purposes

Distinguishing between the potential uses of electric storage facilities is helpful to identify the potential ratemaking treatment that could apply in varying circumstances. In reality, however, a single storage facility can often be used for multiple purposes, which complicates cost recovery issues.

For example, a transmission provider might be interested in building pumped storage to address issues related to variable energy resource integration. Being a transmission provider, it could use the storage facility as a transmission asset to provide voltage support or as a virtual replacement transmission circuit. On that basis, the transmission provider may seek to recover the asset's costs through Commission-jurisdictional transmission rates. The transmission provider also may be able to use the storage facility to firm up output from variable energy resources used to serve retail load. This latter function would be equivalent to shifting variable generation from one period to another in order to maintain deliverability to retail customers, implicating cost recovery under retail rates. Moreover, the same storage facility could be used to provide ancillary services, the costs of which would be recovered through the transmission provider's Commission-approved rates.

Given that storage facilities can be physically capable of providing multiple services, it may be reasonable to contemplate some appropriate sharing of the total cost of the facilities

[5] The statements herein do not necessarily reflect the views of the Commission.

[6] These uses are exclusive of the service storage may provide to retail load.

[7] Some new technologies have the potential to respond to frequency deviations in the transmission system faster than other (traditional generation) resources. At the May 26, 2010 technical conference in Docket No. AD10–11–000, the Commission staff explored issues relating to frequency compensation in the organized wholesale power markets, including whether there are benefits to be gained from linking compensation for frequency regulation service to the quality of the service provided.

[8] *Western Grid Development, LLC,* 130 FERC ¶ 61,056, at P 43 (2010) (Western Grid).

between Commission-jurisdictional and/or retail rates. It should be noted that permitting storage performing transmission functions to recover costs through transmission rates raises certain additional issues in the Commission context. Some of these issues have been discussed in prior Commission orders.[9] Staff seeks comment on the following criteria that could be used to determine the mechanisms by which a storage facility can recover its costs, including when the facility is being used for multiple purposes:

(1) *Intended use and capability of the facility.*

Recovery in transmission rates could be conditioned on a demonstration that the intended use of the storage asset is for transmission purposes, such as to support the transmission system through either voltage support or providing energy to address transmission line instability or trips, and that the asset is capable of performing the specified function. Commission staff seeks comment on an "intended use and capabilities" standard, and whether it creates uncertainty. Would a good option be to rely on transmission planning processes to make such a determination? Also, the concept of a storage asset supporting service to transmission customers by providing energy to address transmission line instability or trips seems to rely on the idea that maintaining service to transmission customer "load" is different from maintaining service to non-jurisdictional retail load. Is there enough difference between un-bundled transmission "load" and retail load to justify identifying this as a separate, jurisdictional use of storage rather than a non-jurisdictional retail use?

(2) *Commitment to address cross-subsidization and competitive concerns.*

Unlike traditional transmission assets, electric storage serving a transmission function and receiving cost-based transmission rates would also be physically capable of providing ancillary services or otherwise enhancing the value of generation in wholesale energy markets. Accordingly, potential cross-subsidization, competition, and discrimination issues could arise if the storage participated in those markets at the same time it is receiving full cost-recovery through transmission rates. Although a commitment not to participate in wholesale energy markets would address these concerns, staff seeks comment on whether there are other ways to address these concerns such that the storage provider can fully utilize the capabilities of its storage device?

There is some precedent in retail ratemaking for permitting guaranteed cost recovery (in bundled retail rates) while also permitting profit-seeking off-system sales in a competitive environment. Retail regulators at times have addressed this issue by requiring a utility making off-system sales from generation built at retail ratepayer expense to credit to retail rates at least the cost of such off-system sales, and possibly some share of the profit as well. The Commission imposed a similar requirement in Pacific Gas & Electric Co., where it approved a revenue sharing ratemaking treatment for secondary uses of jurisdictional assets, such as leases for space on transmission facilities for telecommunications and the use of transmission tower licenses for wireless antennas.[10] While those measures could address cross-subsidization issues, staff seeks comment on whether this type of structure would fully address wholesale discrimination and competitive concerns in the electric storage context.

(3) *Maintaining the independence of market operators.*

The Commission has long held that a Regional Transmission Organization (RTO) or Independent System Operator (ISO) must be independent of its market participants. ISO/RTO operation of traditional transmission assets does not jeopardize the ISO/RTO's independence from energy market participants because such assets generally cannot participate in the energy market. As noted above however, a storage asset would remain physically capable of participating in the energy market. Moreover, it might need to transact in the energy market in order to charge and discharge for purposes of serving its transmission function. Can an ISO/RTO's "operation" of a storage facility be deemed to include responsibility for charging and discharging the storage facility through energy market transactions without jeopardizing its independence, or is this only a concern if the ISO/RTO is essentially left taking title to the resulting stored power, which was one of the main concerns with the proposal in *Nevada Hydro*? [11] Do any existing ISO/RTO practices for implementing special dispatch procedures for certain resources (e.g., PJM Interconnection's pool-scheduling procedures for hydro units) convey some level of control or do they simply implement the resource owner's instructions for dispatch in a manner that, while more detailed, is essentially similar to how traditional generators are dispatched based on bid and operating parameters? Could similar special procedures be developed for storage technologies more generally?

(4) *Application of the Avista Policy.*

The Commission has adopted a policy permitting third-party provision of ancillary services at market-based rates with one key exception, described in the Avista orders.[12] Specifically, third-party provision of ancillary services at market-based rates is prohibited to a transmission provider seeking to meet its own ancillary service requirements. This exception was meant to ensure a competitive market for such ancillary services by maintaining the existence of a cost-based utility back-stop for such services. Subsequently, however, utility industry restructuring sometimes led to situations where the incumbent utility divested its generation assets and thus needed to purchase ancillary services from third-parties. As a result, the Commission began authorizing case-by-case waivers of this prohibition, but otherwise left it in place.

This prohibition on third-party provision of ancillary services at market-based rates to transmission providers seeking to meet their own ancillary services requirements may pose an undue barrier to the development of storage facilities and other resources capable of providing ancillary services. Staff seeks comment on whether this prohibition with case-by-case waiver remains appropriate and, if not, ideas for revising the policy.

III. New Contract Storage Service

Most interstate natural gas storage facilities are operated as transmission facilities and offer open access storage services to customers who contract for that service; the storage facility operator may not buy and sell the gas commodity at that location. Contract storage service is offered at either cost-based or negotiated rates for the service of storing customers' gas and only those storage customers buy and sell the gas commodity itself (storage customers hold "title" to the gas held in storage). Generally, the customer pays a reservation fee and a storage fee based on usage with penalties for over and under scheduling, though this may not always be the case with negotiated rates. Either way, the time arbitrage gains on the stored gas are the profit or loss for

[9] *See Western Grid; Nevada Hydro Co.,* 122 FERC ¶ 61,272 (2008) (*Nevada Hydro*).

[10] *See Pacific Gas & Electric Co.,* 106 FERC ¶ 61,058 (2004); *Pacific Gas & Electric Co.,* 90 FERC ¶ 61,314 (2000).

[11] *Nevada Hydro,* 122 FERC ¶ 61,272 at P 82.

[12] *Avista Corporation,* 87 FERC ¶ 61,223, *order on reh'g,* 89 FERC ¶ 61,136 (1999).

the customer, not the gas storage operator.

This model has not yet been adopted for electric storage facilities but may provide an attractive alternative business model for some storage operators. In this model, the storage operator would operate and maintain the electricity storage facility at its customers' direction and never take title to the energy stored at the facility. Thus, each storage customer would decide how to use its purchased storage capacity. If, for example, a given storage customer has market-based rate authority, then it could use its contracted-for storage capacity to arbitrage differences in peak and off-peak energy prices. The Commission would review the storage provider's cost-based rates for the stand-alone service of storage, or its authority to negotiate market-based rates for that service, separately from the review of the storage customer's independent authority to make power sales using the stored energy (or any other kind of energy).

Alternatively, if the storage facility happens to be favorably located to address a transmission reliability issue, by providing voltage support or serving as a virtual replacement transmission circuit, then to address the issue the local transmission owner could contract with the storage facility to provide this function with all or part of its storage capacity. Again, since the storage provider would provide storage service only at the customer's direction and under a dedicated storage rate, the particular use to which each customer puts its contracted-for storage capacity should not play a role in the Commission's review of the stand-alone storage rate. However the storage customer, in this example a transmission owner, would still need to make its own separate filing to justify transmission rate recovery for the cost of its storage contract.

The primary potential barrier to this type of business model appears to be financial. An independent contract storage provider might need to sign up long-term customers in advance under bilateral contracts, perhaps following an open season, in order to secure financing for construction of the facility. Storage facilities with large up-front capital costs, like pumped storage, may have difficulty attracting sufficient customer interest during the crucial pre-construction financing phase. However, storage service from newer storage technologies with lower up-front capital costs may be easier to finance and market in this way.

We seek comment on the practicality and usefulness of this type of stand-alone contract storage service.

IV. Accounting and Financial Reporting for New Storage Technologies

The Commission's existing accounting and reporting requirements classify utility plant costs under the following accounts: (1) Intangible, (2) steam, (3) nuclear, (4) hydraulic, (5) other production, (6) transmission, (7) distribution, (8) regional transmission and market operation, and (9) general plant. These functional classifications have associated operation and maintenance expense accounts to record expenses associated with the plant assets. However, there are no specific plant asset accounts or related operation and maintenance expense accounts to record costs associated with new storage technologies such as flywheels and chemical batteries. Consequently, Staff seeks comments on the following matters:

1. What new plant functions, if any, should be created to accommodate the above-mentioned technologies?

2. What new plant or new equipment accounts and related reporting requirements, if any, need to be created to facilitate cost of service or other rate policies for the above-mentioned technologies?

3. What new operations and maintenance expense accounts and related reporting requirements, if any, need to be created to facilitate cost of service or other rate policies for the above-mentioned technologies?

4. What new revenue accounts and related reporting requirements, if any, need to be created to facilitate cost of service or other rate policies for the above-mentioned technologies?

5. What type of financial and non-financial data, if any, and what level of detail need to be reported in the FERC Form No. 1 for the above-mentioned technologies and how would the Commission and others use this information for developing and monitoring cost-based rates?

[FR Doc. 2010–15450 Filed 6–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13234–001]

City and Borough of Sitka; Notice Soliciting Scoping Comments for an Applicant Prepared Environmental Assessment Using the Alternative Licensing Process

June 17, 2010.

a. *Type of Application:* Alternative Licensing Process

b. *Project No.:* 13234–001

c. *Applicant:* City and Borough of Sitka

d. *Name of Project:* Takatz Lake Hydroelectric Project

e. *Location:* On the Takatz Lake and Takatz Creek, approximately 20 miles east of the City of Sitka, Alaska, on the east side of Baranof Island. The project would occupy lands of the Tongass National Forest, administered by the U.S. Forest Service.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Christopher Brewton, Utility Manager, City and Borough of Sitka, Electric Department, 105 Jarvis Street, Sitka, Alaska 99835; (907) 747–1870, e-mail: *chrisb@cityofsitka.com.*

h. *FERC Contact:* Joseph Adamson, at (202) 502–2085; or e-mail *joseph.adamson@ferc.gov.*

i. *Deadline for filing scoping comments:* July 19, 2010

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the "e-filing" link. For a simpler method of submitting text only comments, click on "Quick Comment."

j. *The Takatz Lake project would consist of:* (1) A newly constructed concrete arch dam with a crest elevation of 1,052 feet mean sea level (msl), a spillway elevation of 1,040 feet msl, and a structural height of 200 feet; (2) a 30-foot-high secondary saddle dam; (3) an increase in the Takatz Lake impoundment with a 740-acre surface area and a 124,000 acre-feet storage capacity at spillway elevation of 1,040 feet msl; (4) an intake structure for a 2,800-foot-long, 6.5-foot by 7-foot modified unlined horseshoe tunnel, leading to a 72-inch-diameter 1,000-foot-long steel penstock; (5) a 4,000 square foot powerhouse: (6) two Francis-type generating units, having a total installed capacity of 27.6 megawatts; (7) an approximately 4-mile-long access road; (8) an approximately 21-mile-long, 115 kilovolt (kv) or 138 kv transmission line that consists of either a combination of a submerged marine and lake, overhead, and underground segments (Marine Alternative Segment), or a combination of a submerged lake, overhead, and underground segments (Overland Alternative Segment); and (9) other appurtenant equipment.

k. *Scoping Process:* The City and Borough of Sitka (City) is using the Federal Energy Regulatory Commission's (Commission) alternative licensing process (ALP). Under the ALP, the City will prepare an Applicant Prepared Environmental Assessment (APEA) and license application for the Takatz Lake Hydroelectric Project.

Although it is our intent to prepare an EA, there is a possibility the Commission will prepare an Environmental Impact Statement (EIS) for the project.

The project as proposed in Scoping Document 2 (SD2) differs from the City's proposal described in their Pre-application document and Scoping Document 1, filed March, 20, 2009, and August 27, 2009, respectfully. Therefore, to support and assist our environmental review, we are conducting additional paper scoping on the current proposal to ensure that all pertinent issues and alternatives are identified and analyzed, and that the EA is thorough and balanced. Commission staff does not propose to conduct any on-site scoping meetings at this time. Instead, we are soliciting comments, recommendations, and information, on the Scoping Document 2 (SD2) issued on June 16, 2010.

Copies of the SD2 outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of the SD2 may be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call 1–866–208–3676 or for TTY, (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–15389 Filed 6–24–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD10–14–000]

Reliability Standards Development and NERC and Regional Entity Enforcement Supplemental Notice of Technical Conference

June 18, 2010.

On June 15, 2010, the Commission issued a Notice (June 15 Notice) announcing a Commissioner-led technical conference in the above-captioned proceeding. As stated in the June 15 Notice, the conference will provide a forum to consider industry perspectives on certain issues pertaining to the development and enforcement of mandatory Reliability Standards for the Bulk-Power System by the North American Electric Reliability Corporation and the Regional Entities. The conference will be held on Tuesday, July 6, 2010, in the Commission Meeting Room (2C) at the Commission's Washington, DC headquarters, 888 First Street, NE., Washington, DC, from approximately 10 a.m. until approximately 4 p.m. (EDT).

The agenda for the conference is attached. If any changes are made, the revised agenda will be posted prior to the event on the calendar page for this event on the Commission's Web site, *http://www.ferc.gov.*

Please note that on a future date the Commission intends to convene a second Commissioner-led technical conference to discuss reliability monitoring, enforcement, and compliance issues.

The July 6, 2010 conference will be open to the public. Registration is not required. To accommodate participants outside of Washington, DC a free webcast of the conference will be available on *http://www.ferc.gov.* Anyone who desires to view the webcast may do so by visiting *http://www.ferc.gov* by clicking on the Calendar of Events link, and finding the conference on the calendar. The Capitol Connection provides technical support for free webcasts and offers the option of listening via phone-bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or call 703–993–3100.

A transcript of the conferences will be immediately available from Ace Reporting Company (202–347–3700 or 1–800–336–6646) for a fee. The transcript will be available for the public on the Commission's eLibrary system seven calendar days after the Commission receives the transcript.

Any person interested in filing comments after the conference should do so in this docket by July 26, 2010. A person is not required to have attended the conference in order to file comments.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

Questions about the conference may be directed to Karin Larson at 202–502–8236 or *Karin.Larson@ferc.gov* and Christopher Young at 202–502–6403 or *Christopher.Young@ferc.gov.*

Kimberly D. Bose,

Secretary.

Commissioner-Led Technical Conference on Reliability Standards Development and NERC and Regional Entity Enforcement July 6, 2010
10 a.m.–4 p.m.

Agenda

10 a.m. Commissioners' Opening Remarks.

10:20 a.m. Introductions, Joseph McClelland, Director, Office of Electric Reliability, FERC.

10:25 a.m. Panel 1: Presentations and Discussion on the Current State of Mandatory Reliability Standards Development.

Presentations: Panelists will be invited to express their general views on the progress of developing and implementing mandatory and enforceable Reliability Standards since the passage of EPAct 2005. What is working well? What needs improvement? Panelists should address the following broad questions in their presentations:

a. How can the Commission, NERC and the industry best identify priorities for ensuring reliability of the bulk power system?

b. What are the areas for improvement of communication and cooperation between the Commission, NERC

and the industry?

c. What issues have arisen in the development of reliability standards, and what solutions should be explored going forward?

11:45 a.m. Lunch.

12:30 p.m. Continuation of Panel 1.

Discussion with Commissioners: Open dialogue and questions and answers between Panel 1 and Commissioners.

1:30 p.m. Panel 2: Reliability Standards Development Process.

Panelists will address more specifically their views regarding the reliability standards development process. Panelists will be asked to address some or all of the following (Commissioners and staff may ask questions during the presentations):

a. Are the current processes for timely development of new or revised standards working? If not, how can they be revised? Are additional resources needed?

b. How well are the current approaches for identifying and resolving ambiguities in reliability standards working (*e.g.,* formal interpretations, NERC advisories, NERC "lessons learned" procedures)? Should streamlined procedures be developed for resolving ambiguities?

c. What is the best process for identifying the highest priority reliability standards?

d. How can the reliability standards development process better account for and timely respond to Commission directives?

e. The need to revise FERC processes to be more open and to fully accommodate industry participation, *e.g.,* lengthening the comment period in NOPRs, and prioritizing standards development and NERC's compliance with directives.

f. How can the reliability standards development process better use individual events to produce reliability improvements nationwide?

g. How can a balance be achieved between documentation requirements needed to ensure compliance and a focus on improving reliability?

[FR Doc. 2010–15390 Filed 6–24–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8991–1]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements filed 06/14/2010 through 06/18/2010 pursuant to 40 CFR 1506.9.

Notice: In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA has met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has been including its comment letters on EISs on its Web site at: *http://www.epa.gov/compliance/nepa/eisdata.html.* Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, on March 31, 2010, EPA discontinued the publication of the notice of availability of EPA comments in the **Federal Register**.

EIS No. 20100225, Draft EIS, BLM, NV, Winnemucca District Office Resource Management Plan, Implementation, Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area, Humboldt, Pershing, Washoe, Lyon and Churchill Counties, NV, Comment Period Ends: 09/22/2010, Contact: Robert Edward, 775–623–1597.

EIS No. 20100226, Final EIS, USFS, CA, Big Grizzly Fuels Reduction and Forest Health Project, Proposes Vegetation Treatments, Eldorado National Forest, Georgetown Ranger District, Georgetown, CA, Wait Period Ends: 07/26/2010, Contact: Dana Walsh, 530–333–5558.

EIS No. 20100227, Final EIS, NOAA, 00, Rationalization of the Pacific Coast Groundfish Limited Entry Trawl Fishery, Amendment 20, Implementation, WA, OR and CA, Wait Period Ends: 07/26/2010, Contact: Barry A. Thom, 206–526–6150.

EIS No. 20100228, Final EIS, FHWA, WI, WI–23 Highway Project, Transportation Improve between Fond du Lac and Plymouth, Fond du Lac and Sheboygan Counties, WI, Wait Period Ends: 07/26/2010, Contact: George Poirier, 608–829–7500.

EIS No. 20100229, Draft EIS, NRC, NC, GE–Hitachi Global Laser Enrichment LLC Facility, Construct, Operate, and Decommission a Laser-Based Uranium Enrichment Facility, Wilmington, NC, Comment Period Ends: 08/09/2010, Contact: Jennifer Davis, 301–415–3835.

EIS No. 20100230, Final EIS, FTA, HI, Honolulu High-Capacity Transit Corridor Project, Provide High-Capacity Transit Service on O'ahu from Kapolei to the University of Hawaii at Manoa and Waikiki, City and County of Honolulu, O'ahu, Hawaii, Wait Period Ends: 07/26/2010, Contact: Ted Matley, 415–744–3133.

EIS No. 20100231, Third Draft Supplement, USACE, FL, Herbert Hoover Dike Major Rehabilitation Evaluation Study, Proposed to Reconstruct and Rehabilitate Reach 1A Landside Rehabilitation, Lake Okeechobee, Martin and Palm Beach Counties, FL, Comment Period Ends: 08/09/2010, Contact: Angela Dunn, 904–232–2108.

EIS No. 20100232, Final EIS, NOAA, 00, Amendment 21 to the Pacific Coast Groundfish Fishery Management Plan, (FMP), Allocation of Harvest Opportunity between Sectors, Implementation, WA, OR and CA, Wait Period Ends: 07/26/2010, Contact: Barry A. Thom, 206–526–6150.

EIS No. 20100233, Revised Draft EIS, USFS, 00, Uinta National Forest Oil and Gas Leasing, Implementation, Identify National Forest Systems Lands with Federal Mineral Rights, Wasatch, Utah, Juab, Tooele, and Sanpete Counties, UT, Comment Period Ends: 08/09/2010, Contact: Kim Martin, 801–342–5100.

EIS No. 20100234, Final EIS, USAF, 00, Shaw Air Base Airspace Training Initiative (ATI), 20th Fighter Wing Proposal to Modify the Training Airspace Overlying Parts, South Carolina and Georgia, Wait Period Ends: 07/26/2010, Contact: Linda Devine, 757–964–9434.

EIS No. 20100235, Final EIS, FSA, 00, PROGRAMMATIC—Biomass Crop Assistance Program (BCAP), To Establish and Administer the Program Areas Program Component of BCAP as mandated in Title IX of the 2008 Farm Bill in the United States, Wait Period Ends: 07/26/2010, Contact: Matthew T. Ponish, 202–720–6853.

Amended Notices

EIS No. 20040214, Draft EIS, FHWA, CA, WITHDRAWN—Gold Line Phase II—Pasadena to Montclair—Foothill Extension, Address Transportation Problems and Deficiencies, Cities of Pasadena, Arcadia, Monrovia, Durate, Irwindale, Azusa, Glendora, San Dimas, La Verne, Pomona and Claremont in Los Angeles County, and Cities of Montclair and Upland in San Bernardino County, CA, Comment Period Ends: 06/21/2004, Contact: Erv Poka, 213–202–3950. Revision to FR Notice Published 05/07/2004: The EIS was Officially Withdraw by filing Agency in Letter Dated 06/17/2010.

Dated: June 22, 2010.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2010–15502 Filed 6–24–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9168–2]

Informational Public Meetings for Hydraulic Fracturing Research Study; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: The Environmental Protection Agency (EPA) published a document in the **Federal Register** of June 21, 2010, announcing public meetings for the Hydraulic Fracturing Research Study. The document contained an incorrect EPA Web site address in two places.

FOR FURTHER INFORMATION CONTACT: Jill Dean, 202–564–8241.

Correction

In the **Federal Register** June 21, 2010, in FR doc. 2010–14897, on page 35023, in the third Column, correct the Web site addresses shown in (1) the first paragraph, seventh and eighth lines and (2) in the third paragraph, seventeenth and eighteenth lines to read: *http://www.epa.gov/safewater/uic/wells_hydrofrac.html.*

Dated: June 21, 2010.

Sheila E. Frace,

Acting Director, Office of Groundwater and Drinking Water.

[FR Doc. 2010–15466 Filed 6–24–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2010–0532; FRL–9168–5]

Board of Scientific Counselors, Executive Committee Meeting—July 2010

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of a meeting of the Board of Scientific Counselors (BOSC) Executive Committee.

DATES: The meeting will be held on Monday, July 12, 2010, from 9 a.m. to 5 p.m., and will continue on Tuesday, July 13, 2010, from 8:30 a.m. until 1 p.m. All times noted are pacific time. The meeting may adjourn early if all business is finished. Requests for the draft agenda or for making oral presentations at the meeting will be accepted up to one business day before the meeting.

ADDRESSES: The meeting will be held at the U.S. EPA, 200 SW. 35th Street, Corvallis, OR 97333. Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2010–0532, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Send comments by electronic mail (e-mail) to: *ORD.Docket@epa.gov,* Attention Docket ID No. EPA–HQ–ORD–2010–0532.
- *Fax:* Fax comments to: (202) 566–0224, Attention Docket ID No. EPA–HQ–ORD–2010–0532.
- *Mail:* Send comments by mail to: Board of Scientific Counselors, Executive Committee Meeting—February 2010 Docket, Mailcode: 2822T, 1301 Constitution Avenue., NW., Washington, DC 20004, Attention Docket ID No. EPA–HQ–ORD–2010–0532.
- *Hand Delivery or Courier:* Deliver comments to: EPA Docket Center (EPA/DC), Room 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. EPA–HQ–ORD–2010–0532. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2010–0532. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/dockets.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov index.* Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Board of Scientific Counselors, Executive Committee Meeting—July 2010 Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the ORD Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Officer via mail at: Greg Susanke, Mail Code 8104–R, Office

of Science Policy, Office of Research and Development, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via phone/voice mail at: (202) 564–9945; via fax at: (202) 565–2911; or via e-mail at: *susanke.greg@epa.gov.*

SUPPLEMENTARY INFORMATION:

General Information

Any member of the public interested in receiving a draft BOSC agenda or making a presentation at the meeting may contact Greg Susanke, the Designated Federal Officer, via any of the contact methods listed in the "**FOR FURTHER INFORMATION CONTACT**" section above. In general, each individual making an oral presentation will be limited to a total of three minutes.

Proposed agenda items for the meeting include, but are not limited to: Executive Committee review of the ORD response to the BOSC Human Health Review Report, and ORD Mid-Cycle Progress Reports on the Human Health Risk Assessment and Safe Pesticides/Safe Products Research Programs; an Ecosystem Informatics Session; an ORD update; and future business. The meeting is open to the public.

Information on Services for Individuals with Disabilities: For information on access or services for individuals with disabilities, please contact Greg Susanke (202) 564–9945 or *susanke.greg@epa.gov.* To request accommodation of a disability, please contact Greg Susanke, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 14, 2010.

Fred Hauchman,

Director, Office of Science Policy.

[FR Doc. 2010–15499 Filed 6–24–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9168–3]

Proposed Administrative Cost Recovery Settlement Under Section 122(h) of the Comprehensive Environmental Response Compensation and Liability Act, as Amended, 42 U.S.C. 9622(h), Doe Run Resources Corporation, Middlebrook, MO

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response Compensation and Liability Act, as amended (CERCLA), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement with Doe Run Resources Corporation (Doe Run), for recovery of past response costs concerning the response actions taken by Doe Run to address lead contamination associated with a former railhead transport, storage and loading area in Middlebrook, Missouri. The settlement requires Doe Run to pay the Hazardous Substances Superfund for costs incurred by the United States Environmental Protection Agency, Region 7, in response to overseeing and investigating this response. The settlement requires Doe Run to pay $225,429.11, plus applicable interest, to the Hazardous Substances Superfund. The settlement includes a covenant not to sue the settling party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at the EPA Region 7 office located at 901 N. 5th Street, Kansas City, Kansas.

DATES: Comments must be submitted on or before July 26, 2010.

ADDRESSES: The proposed settlement is available for public inspection at the EPA Region 7 office, 901 N. 5th Street, Kansas City, Kansas, Monday through Friday, between the hours of 8 a.m. through 4:30 p.m. A copy of the proposed settlement may be obtained from the Regional Hearing Clerk, 901 N. 5th Street, Kansas City, Kansas, (913) 551–7567. Requests should reference the Doe Run Resources Corporation, Middlebrook Railhead, EPA Docket No. CERCLA–07–2010–0008. Comments should be addressed to: Dan Breedlove, Assistant Regional Counsel, Office of Regional Counsel, 901 N. 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Dan Breedlove, at *telephone:* (913) 551–7172; *fax number:* (913) 551–7925/*Attn:* Dan Breedlove; *E-mail address: http://www.breedlove.dan@epa.gov.*

Dated: June 11, 2010.

Cecilia Tapia,

Division Director, Superfund Division, Region 7.

[FR Doc. 2010–15467 Filed 6–24–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested

June 17, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 – 3520. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 26, 2010. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at

Nicholas_A._Fraser@omb.eop.gov and to the Federal Communications Commission via email to PRA@fcc.gov. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page http://reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called "Currently Under Review", (3) click on the downward–pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information or copies of the information collection(s), contact Judith B. Herman, OMD, 202–418–0214 or email judith–b.herman@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1132.

Title: National Broadband Plan Survey: Demand for Broadband.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households.

Number of Respondents and Responses: 4,500 respondents; 4,500 responses.

Estimated Time per Response: .3 hours (20 minutes).

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in Public Law No. 110–385, Broadband Data Improvement Act of 2008 and Public Law No. 111–5, American Reinvestment and Recovery Act of 2009.

Total Annual Burden: 1,350 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: No personally identifiable information will be transmitted to the Commission from the survey contractor as a matter of vendor policy.

Needs and Uses: The Commission is now seeking the three year OMB approval for this expiring information collection. The Commission sought emergency OMB approval in December 2009. We received the six month approval on December 18, 2009. Because emergency OMB approvals are only granted for six months, the Commission is required to re–submit this collection to obtain the full three year clearance.

The Commission now requests an extension (no change in the reporting requirement) for this collection on an on–going basis so that the information will be available for Commission use in formulating policy recommendations for the adoption and use of broadband as required by the American Reinvestment and Recovery Act of 2009 (ARRA).

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–15383 Filed 6–24–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

June 22, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 – 3520. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before August 24, 2010. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via email to Nicholas_A._Fraser@omb.eop.gov and to the Federal Communications Commission via email to PRA@fcc.gov and Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0649

Title: Sections 76.1601, Deletion or Repositioning of Broadcast Signals, 76.1617 Initial Must–Carry Notice, 76.1607 and 76.1708 Principal Headend.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit entities; Not–for–profit institutions.

Number of Respondents and Responses: 3,300 respondents and 4,100 responses.

Estimated Hours per Response: 0.5 to 1 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement; Recordkeeping requirement.

Total Annual Burden: 2,200 hours.

Total Annual Costs: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Section 4(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: No need for confidentiality required with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 76.1601 requires that effective April 2, 1993, a cable operator shall provide written notice to any broadcast television station at least 30 days prior to either deleting from carriage or repositioning that station. Such notification shall also be provided to subscribers of the cable system.

47 CFR 76.1607 states that cable operators shall provide written notice by certified mail to all stations carried on its system pursuant to the must–

carry rules at least 60 days prior to any change in the designation of its principal headend.

47 CFR 76.1617(a) states within 60 days of activation of a cable system, a cable operator must notify all qualified NCE stations of its designated principal headend by certified mail.

47 CFR 76.1617(b) within 60 days of activation of a cable system, a cable operator must notify all local commercial and NCE stations that may not be entitled to carriage because they either:

(1) Fail to meet the standards for delivery of a good quality signal to the cable system's principal headend, or

(2) May cause an increased copyright liability to the cable system.

47 CFR 76.1617(c) states within 60 days of activation of a cable system, a cable operator must send by certified mail a copy of a list of all broadcast television stations carried by its system and their channel positions to all local commercial and noncommercial television stations, including those not designated as must–carry stations and those not carried on the system.

47 CFR 76.1708(a) states that the operator of every cable television system shall maintain for public inspection the designation and location of its principal headend. If an operator changes the designation of its principal headend, that new designation must be included in its public file.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–15494 Filed 6–24–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested

June 22, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 – 3520. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before [July 26, 2010]. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via email to Nicholas_A._Fraser@omb.eop.gov and to the Federal Communications Commission via email to PRA@fcc.gov and Cathy.Williams@fcc.gov. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page http://reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called "Currently Under Review", (3) click on the downward–pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0700.

Title: Open Video Systems Provisions, FCC Form 1275.

Form Number: FCC Form 1275.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit entities; State, Local or Tribal Government.

Number of Respondents and Responses: 280 respondents and 4,672 responses.

Frequency of Response: On occasion reporting requirement; Recordkeeping and third party disclosure requirements.

Estimated Time per Response: 0.25 to 20 hours.

Total Annual Burden: 9,855 hours.

Total Annual Costs: None.

Privacy Impact Assessment: No impact(s).

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 302 of the Communications Act of 1934, as amended.

Confidentiality: No need for confidentiality required with this collection of information.

Needs and Uses: Section 302 of the 1996 Telecommunications Act provides for specific entry options for telephone companies wishing to enter the video programming marketplace, one option being to provide cable service over an "open video system" ("OVS"). The following information collection requirements listed below are covered under information collection 3060–0700.

47 CFR 76.1502(a) states an operator of an open video system must certify to the Commission that it will comply with the Commission's regulations in 47 CFR 76.1503, 76.1504, 76.1506, 76.1508, 76.1509, and 76.1513. The Commission must approve such certification prior to the commencement of service at such a point in time that would allow the applicant sufficient time to comply with the Commission's notification requirements.

47 CFR 76.1502(b) states that certifications must be verified by an officer or director of the applicant, stating that, to the best of his or her information and belief, the representations made therein are accurate.

47 CFR 75.1502(c) requires that certifications must be filed on FCC Form 1275 and must include:

(1) The applicant's name, address and telephone number;

(2) A statement of ownership, including all affiliated entities;

(3) If the applicant is a cable operator applying for certification in its cable franchise area, a statement that the applicant is qualified to operate an open video system under Section 76.1501.

(4) A statement that the applicant agrees to comply and to remain in compliance with each of the Commission's regulations in §§76.1503, 76.1504, 76.1506, 76.1508, 76.1509, and 76.1513;

(5) If the applicant is required under 47 CFR 64.903(a) to file a cost allocation manual, a statement that the applicant will file changes to its manual at least 60 days before the commencement of service;

(6) A list of the names of the anticipated local communities to be served upon completion of the system;

(7) The anticipated amount and type (i.e., analog or digital) of capacity (for switched digital systems, the anticipated number of available channel input ports); and

(8) A statement that the applicant will comply with the Commission's notice and enrollment requirements for unaffiliated video programming providers.

47 CFR 76.1502(d)(1) requires that on or before the date an FCC Form 1275 is filed with the Commission, the applicant must serve a copy of its filing on all local communities identified and must include a statement informing the local communities of the Commission's requirements for filing oppositions and comments. Service by mail is complete upon mailing, but if mailed, the served documents must be postmarked at least 3 days prior to the filing of the FCC Form 1275 with the Commission.

47 CFR 76.1502(d)(2) states that parties are required to attach a cover sheet to the filing indicating that the submission is an open video system certification application. The only wording on this cover sheet shall be "Open Video System Certification Application" and "Attention: Media Bureau." This wording shall be located in the center of the page and should be in letters at least 1/2 inch in size. Parties shall also include the words "open video systems" on their mailing envelope.

47 CFR 76.1502(e)(1) requires that comments or oppositions to a certification must be filed within five calendar days of the Commission's receipt of the certification and must be served on the party that filed the certification. If, after making the necessary calculations, the due date for filing comments falls on a holiday, comments shall be filed on the next business day before noon, unless the nearest business day precedes the fifth calendar day following a filing, in which case the comments will be due on the preceding business day.

47 CFR 76.1502(e)(2) requires parties wishing to respond to a FCC Form 1275 filing must submit comments or oppositions with the Office of the Secretary and the Bureau Chief, Media Bureau. Comments will not be considered properly filed unless filed with both of these Offices. Parties are required to attach a cover sheet to the filing indicating that the submission is a pleading related to an open video system application, the only wording on this cover sheet shall be "Open Video System Certification Application Comments." This wording shall be located in the center of the page and should be in letters at least 1/2 inch in size. Parties shall also include the words "open video systems" on their mailing envelopes.

47 CFR 76.1502(f) states if the Commission does not disapprove the certification application within ten days after receipt of an applicant's request, the certification application will be deemed approved. If disapproved, the applicant may file a revised certification or refile its original submission with a statement addressing the issues in dispute. Such refilings must be served on any objecting party or parties and on all local communities in which the applicant intends to operate. The Commission will consider any revised or refiled FCC Form 1275 to be a new proceeding and any party who filed comments regarding the original FCC Form 1275 will have to refile their original comments if they think such comments should be considered in the subsequent proceeding.

47 CFR 76.1503(b)(1) states an open video system operator shall file with the Secretary of the Federal Communications Commission a "Notice of Intent" to establish an open video system, which the Commission will release in a Public Notice. Parties are required to attach a cover sheet to the filing indicating that the submission is an Open Video System Notice of Intent. The only wording on this cover sheet shall be "Open Video System Notice of Intent" and "Attention: Media Bureau." This wording shall be located in the center of the page and should be in letters at least 1/2 inch in size. Parties shall also include the words "open video systems" on their mailing envelopes. Parties must submit copies of the Notice of Intent with the Office of the Secretary and the Bureau Chief, Media Bureau.

47 CFR 76.1503(b)(2) states that an open video system operator shall provide the following information to a video programming provider within five business days of receiving a written request from the provider, unless otherwise included in the Notice of Intent:

(i) The projected activation date of the open video system. If a system is to be activated in stages, the operator should describe the respective stages and the projected dates on which each stage will be activated;

(ii) A preliminary carriage rate estimate;

(iii) The information a video programming provider will be required to provide to qualify as a video programming provider, e.g., creditworthiness;

(iv) Technical information that is reasonably necessary for potential video programming providers to assess whether to seek capacity on the open video system, including what type of customer premises equipment subscribers will need to receive service;

(v) Any transmission or reception equipment needed by a video programming provider to interface successfully with the open video system; and

(vi) The equipment available to facilitate the carriage of unaffiliated video programming and the electronic form(s) that will be accepted for processing and subsequent transmission through the system.

47 CFR 76.1504(d) states complaints regarding rates shall be limited to video programming providers that have sought carriage on the open video system. If a video programming provider files a complaint against an open video system operator meeting the above just and reasonable rate presumption, the burden of proof will rest with the complainant. If a complaint is filed against an open video system operator that does not meet the just and reasonable rate presumption, the open video system operator will bear the burden of proof to demonstrate, using the principles set forth below, that the carriage rates subject to the complaint are just and reasonable.

47 CFR 76.1504(e) states how reasonable rates subject to complaints are determined and what tests must be met for such determinations.

47 CFR 76.1505(d)(8) states the open video system operator and/or the local franchising authority may file a complaint with the Commission, pursuant to our dispute resolution procedures set forth in § 76.1514, if the open video system operator and the local franchising authority cannot agree as to the application of the Commission's rules regarding the open video system operator's public, educational and governmental access obligations under paragraph (d) of this section.

47 CFR 76.1506(l)(2) states must–carry/retransmission consent election

notifications shall be sent to the open video system operator. An open video system operator shall make all must–carry/retransmission consent election notifications received available to the appropriate programming providers on its system.

(3) Television broadcast stations are required to make the same election for open video systems and cable systems serving the same geographic area, unless the overlapping open video system is unable to deliver appropriate signals in conformance with the broadcast station's elections for all cable systems serving the same geographic area.

(4) An open video system commencing new operations shall notify all local commercial and noncommercial broadcast stations as required under paragraph (l) of this section on or before the date on which it files with the Commission its Notice of Intent to establish an open video system.

47 CFR 76.1506(m)(2) states that notification of programming to be deleted pursuant to this section shall be served on the open video system operator. The open video system operator shall make all notifications immediately available to the appropriate video programming providers on its open video system. Operators may effect the deletion of signals for which they have received deletion notices unless they receive notice within a reasonable time from the appropriate programming provider that the rights claimed are invalid. The open video system operator shall not delete signals for which it has received notice from the programming provider that the rights claimed are invalid. An open video system operator shall be subject to sanctions for any violation of this subpart. An open video system operator may require indemnification as a condition of carriage for any sanctions it may incur in reliance on a programmer's claim that certain exclusive or non–duplication rights are invalid.

47 CFR 76.1508(c) states any provision of § 76.94 that refers to a "cable system operator" or "cable television system operator" shall apply to an open video system operator. Any provision of § 76.94 that refers to a "cable system" or "cable television system" shall apply to an open video system except § 76.94 (e) and (f) which shall apply to an open video system operator. Open video system operators shall make all notifications and information regarding the exercise of network non–duplication rights immediately available to all appropriate video programming provider on the system. An open video system operator shall not be subject to sanctions for any violation of these rules by an unaffiliated program supplier if the operator provided proper notices to the program supplier and subsequently took prompt steps to stop the distribution of the infringing program once it was notified of a violation.

47 CFR 76.1509(c) states any provision of § 76.155 that refers to a "cable system operator" or "cable television system operator" shall apply to an open video system operator. Any provision of § 76.155 that refers to a "cable system" or "cable television system" shall apply to an open video system except § 76.155(c) which shall apply to an open video system operator. Open video system operators shall make all notifications and information regarding exercise of syndicated program exclusivity rights immediately available to all appropriate video programming provider on the system. An open video system operator shall not be subject to sanctions for any violation of these rules by an unaffiliated program supplier if the operator provided proper notices to the program supplier and subsequently took prompt steps to stop the distribution of the infringing program once it was notified of a violation.

47 CFR 76.1513(a) states any party aggrieved by conduct that it believes constitute a violation of the regulations set forth in this part or in section 653 of the Communications Act (47 U.S.C. 573) may commence an adjudicatory proceeding at the Commission to obtain enforcement of the rules through the filing of a complaint. The Commission shall resolve any such dispute within 180 days after the filing of a complaint. The complaint shall be filed and responded to in accordance with the procedures specified in § 76.7 of this part with the following additions or changes.

47 CFR 76.1513(b) requires that an open video system operator may not provide in its carriage contracts with programming providers that any dispute must be submitted to arbitration, mediation, or any other alternative method for dispute resolution prior to submission of a complaint to the Commission.

47 CFR 76.1513(c) states that any aggrieved party intending to file a complaint under this section must first notify the potential defendant open video system operator that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in this part or in Section 653 of the Communications Act. The notice must be in writing and must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

47 CFR 76.1513(d) states that in addition to the requirements of § 76.7 of this part, an open video system complaint shall contain:

(1) The type of entity that describes complainant (e.g., individual, private association, partnership, or corporation), the address and telephone number of the complainant, and the address and telephone number of each defendant;

(2) If discrimination in rates, terms, and conditions of carriage is alleged, documentary evidence shall be submitted such as a preliminary carriage rate estimate or a programming contract that demonstrates a differential in price, terms or conditions between complainant and a competing video programming provider or, if no programming contract or preliminary carriage rate estimate is submitted with the complaint, an affidavit signed by an officer of complainant alleging that a differential in price, terms or conditions exists, a description of the nature and extent (if known or reasonably estimated by the complainant) of the differential, together with a statement that defendant refused to provide any further specific comparative information;

Note to paragraph (d)(2): Upon request by a complainant, the preliminary carriage rate estimate shall include a calculation of the average of the carriage rates paid by the unaffiliated video programming providers receiving carriage from the open video system operator, including the information needed for any weighting of the individual carriage rates that the operator has included in the average rate.

(3) If a programming contract or a preliminary carriage rate estimate is submitted with the complaint in support of the alleged violation, specific references to the relevant provisions therein.

(4) The complaint must be accompanied by appropriate evidence demonstrating that the required notification pursuant to paragraph (c) of this section has been made.

47 CFR 76.1513(e)(1) requires that any open video system operator upon which a complaint is served under this section shall answer within thirty (30) days of service of the complaint, unless otherwise directed by the Commission.

47 CFR 76.1513(e)(2) states that an answer to a discrimination complaint shall state the reasons for any differential in prices, terms or conditions between the complainant and its competitor, and shall specify the particular justification relied upon in support of the differential. Any documents or contracts submitted pursuant to this paragraph may be protected as proprietary pursuant to § 76.9 of this part.

47 CFR 76.1513(f) states that within twenty (20) days after service of an answer, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters.

47 CFR 76.1513(g) requires that any complaint filed pursuant to this subsection must be filed within one year of the date on which one of the following events occurs:

(1) The open video system operator enters into a contract with the complainant that the complainant alleges to violate one or more of the rules contained in this part; or

(2) The open video system operator offers to carry programming for the complainant pursuant to terms that the complainant alleges to violate one or more of the rules contained in this part, and such offer to carry programming is unrelated to any existing contract between the complainant and the open video system operator; or

(3) The complainant has notified an open video system operator that it intends to file a complaint with the Commission based on a request for such operator to carry the complainant's programming on its open video system that has been denied or unacknowledged, allegedly in violation of one or more of the rules contained in this part.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–15495– Filed 6–24–8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: ENTERTAINMENT MEDIA TRUST, DENNIS J. WATKINS, TRUSTEE, Facility ID 5281, BP–20100216AAY, From UNIVERSITY CITY, MO, To FAIRVIEW HEIGHTS, IL; OCEAN SIDE BROADCASTING, INC., Facility ID 177396, BMPED–20100517AAA, From ELK MOUNTAIN, WY, To WEST LARAMIE, WY; RUDEX BROADCASTING LIMITED CORPORATION, Facility ID 36830, BP–20100608ADF, From HEMET, CA, To LOMA LINDA, CA.

DATES: Comments may be filed through August 24, 2010.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.*

A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2010–15473 Filed 6–24–10; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY:

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before August 24, 2010.

ADDRESSES: You may submit comments, identified by FR 1373, FR 2070, FR 2081, or FR 4025, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.*

Include the OMB control number in the subject line of the message.

• *Fax:* 202/452–3819 or 202/452–3102.

• *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW) between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/boarddocs/reportforms/review.cfm* or may be requested from the agency clearance officer, whose name appears below.

Michelle Shore, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869).

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following reports:

1. *Report title:* Surveys of Board Publications.

Agency form number: FR 1373a, b.

OMB control number: 7100–0301.

Frequency: FR 1373a, survey: One or two times per year; discussion groups: Two times a year. FR 1373b, small-panel survey: Two times a year; large-panel survey, one time per year.

Reporters: FR 1373a: Community-based educators, key stakeholders, and other educators who have previously requested consumer education materials from the Federal Reserve. FR 1373b: Current subscribers of the publications being surveyed.

Estimated annual reporting hours: FR 1373a: Survey, 375 hours; discussion groups, 60 hours. FR 1373b: small-panel, 6 hours; large-panel 32 hours.

Estimated average hours per response: FR 1373a: Survey, 30 minutes; discussion groups, 90 minutes. FR 1373b: Small-panel, 10 minutes; large-panel 10 minutes.

Number of respondents: FR 1373a: Survey, 500; panel discussion, 20. FR 1373b: Small-panel, 20; large-panel, 200.

General description of report: This information collection is voluntary. The FR 1373a study is authorized pursuant to section 18(f) of the Federal Trade Commission Improvement Act (15 U.S.C. 57a(f)). The FR 1373b study is authorized pursuant to the Federal Reserve Act (12 U.S.C. 248(i)). The specific information collected is not considered confidential.

Abstract: The Federal Reserve uses the FR 1373a to: (1) Conduct periodic reviews and evaluations of the consumer education materials and (2) develop and evaluate consumer education materials under consideration for distribution. The FR 1373b data help the Federal Reserve determine if it should continue to issue certain publications and, if so, whether the public would like to see changes in the method of information delivery, frequency, content, format, or appearance.

2. *Report title:* Interagency Bank Merger Act Application.

Agency form number: FR 2070.

OMB control number: 7100–0171.

Frequency: On occasion.

Reporters: State member banks.

Estimated annual reporting hours: Nonaffiliate Transactions: 1,470 hours; *Affiliate Transactions:* 216 hours.

Estimated average hours per response: Nonaffiliate Transactions: 30 hours; *Affiliate Transactions:* 18 hours.

Number of respondents: Nonaffiliate Transactions: 49; *Affiliate Transactions:* 12.

General description of report: This information collection is mandatory. The FR 2070 is pursuant to section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) and is not given confidential treatment. However, applicants may request that parts of a submitted application be kept confidential. In such cases, the burden is on the applicant to justify the exemption by demonstrating that disclosure would cause substantial competitive harm or result in an unwarranted invasion of personal privacy or would otherwise qualify for an exemption under the Freedom of Information Act (5 U.S.C. 552(b)(4) and (b)(6)). The confidentiality status of the information submitted will be judged on a case-by-case basis.

Abstract: The Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision each use this application form to collect information for bank merger proposals that require prior approval under the Bank Merger Act. Prior approval is required for every merger transaction involving affiliated or nonaffiliated institutions and must be sought from the regulatory agency of the depository institution that would survive the proposed transaction. A merger transaction may include a merger, consolidation, assumption of deposit liabilities, or certain asset-transfers between or among two or more institutions. The Federal Reserve collects this information so that it may meet its statutory obligation to evaluate the competitive, financial, managerial, future prospects, and convenience and needs aspects of each state member bank merger proposal.

3. *Report title:* Interagency Notice of Change in Control, Interagency Notice of Change in Director or Senior Executive Officer, and Interagency Biographical and Financial Report.

Agency form number: FR 2081a, FR 2081b, and FR 2081c.

OMB control number: 7100–0134.

Frequency: On occasion.

Reporters: Financial institutions and certain of their officers and shareholders.

Annual reporting hours: FR 2081a: 3,570 hours; *FR 2081b:* 272 hours; *FR 2081c:* 3,572 hours.

Estimated average hours per response: FR 2081a: 30 hours; *FR 2081b:* 2 hours; *FR 2081c:* 4 hours.

Number of respondents: FR 2081a: 119; FR 2081b: 136; FR 2081c: 893.

General description of report: This information collection is mandatory pursuant to section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) and section 914 of the Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 1831(i)) and is not given confidential treatment. However, applicants may request that parts of a submitted application be kept confidential. In such cases, the burden is on the applicant to justify the exemption by demonstrating that disclosure would cause substantial competitive harm or result in an unwarranted invasion of personal privacy or would otherwise qualify for

an exemption under the Freedom of Information Act (5 U.S.C. 552(b)(4) and (b)(6)). The confidentiality status of the information submitted will be judged on a case-by-case basis.

Abstract: The information collected assists the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision in fulfilling their statutory responsibilities as supervisors. Each of these forms is used to collect information in connection with applications and notices filed prior to proposed changes in the ownership or management of banking organizations. The agencies use the information to evaluate the controlling owners, senior officers, and directors of the insured depository institutions subject to their oversight.

4. *Report title:* Recordkeeping and Disclosure Requirements Associated with Regulation R.

Agency form number: FR 4025.

OMB control number: 7100–0316.

Frequency: On occasion.

Reporters: Commercial banks and savings associations.

Estimated annual reporting hours: Section 701, disclosures to customers—12,500 hours; Section 701, disclosures to brokers—375 hours; Section 723, recordkeeping—188 hours; Section 741, disclosures to customers—62,500 hours.

Estimated average hours per response: Section 701, disclosures to customers—5 minutes; Section 701, disclosures to brokers—15 minutes; Section 723, recordkeeping—15 minutes; Section 741, disclosures to customers—5 minutes.

Number of respondents: Section 701, disclosures to customers—1,500; Section 701, disclosures to brokers—1,500; Section 723, recordkeeping—75; Section 741, disclosures to customers—750.

General description of report: This information collection is required to obtain a benefit pursuant to section 3(a)(4)(F) of the Securities Exchange Act (15 U.S.C. 78c(a)(4)(F)) and may be given confidential treatment under the authority of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (b)(8)).

Abstract: Regulation R implements certain exceptions for banks from the definition of broker under Section 3(a)(4) of the Securities Exchange Act of 1934, as amended by the Gramm-Leach-Bliley Act. Sections 701, 723, and 741 of Regulation R contain information collection requirements. Section 701 requires banks that wish to utilize the exemption in that section to make certain disclosures to the high net worth customer or institutional customer. In addition, section 701 requires banks that wish to utilize the exemption in that section to provide a notice to its broker-dealer partner regarding names and other identifying information about bank employees. Section 723 requires a bank that chooses to rely on the exemption in that section to exclude certain trust or fiduciary accounts in determining its compliance with the chiefly compensated test in section 721 to maintain certain records relating to the excluded accounts. Section 741 requires a bank relying on the exemption provided by that section to provide customers with a prospectus for the money market fund securities, not later than the time the customer authorizes the bank to effect the transaction in such securities, if the class of series of securities are not no-load.

Board of Governors of the Federal Reserve System, June 22, 2010.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2010–15492 Filed 6–24–10; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 22, 2010.

A. Federal Reserve Bank of Atlanta (Clifford Stanford, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. USAmeriBancorp, Inc., Largo, Florida; to acquire at least 50 percent of the voting shares of Aliant Financial Corporation, and thereby indirectly acquire voting shares of Aliant Bank, both of Alexander City, Alabama.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. First Holding Company of Park River, Inc., Park River, North Dakota; to establish a wholly owned subsidiary, Sheyenne Bancorp, Inc., Park River, North Dakota, and thereby acquire 100 percent of the voting shares of First Sharon Holding Company, Inc., Aneta, North Dakota, and indirectly acquire voting shares of First State Bank of Sharon, Sharon, North Dakota. In connection with this application, Sheyenne Bancorp, Inc., has also applied to become a bank holding company.

Board of Governors of the Federal Reserve System, June 22, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–15474 Filed 6–24–10; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2010–0013]

FEDERAL RESERVE SYSTEM

[Docket No. OP–1374]

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[Docket ID OTS–2010–0020]

Guidance on Sound Incentive Compensation Policies

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System, (Board or Federal Reserve);

Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS).

ACTION: Final guidance.

SUMMARY: The OCC, Board, FDIC and OTS (collectively, the Agencies) are adopting final guidance designed to help ensure that incentive compensation policies at banking organizations do not encourage imprudent risk-taking and are consistent with the safety and soundness of the organization.

DATES: *Effective Date:* The guidance is effective on June 25, 2010.

FOR FURTHER INFORMATION CONTACT:

OCC: Karen M. Kwilosz, Director, Operational Risk Policy, (202) 874–9457, or Reggy Robinson, Policy Analyst, Operational Risk Policy, (202) 874–4438.

Board: William F. Treacy, Adviser, (202) 452–3859, Division of Banking Supervision and Regulation; Mark S. Carey, Adviser, (202) 452–2784, Division of International Finance; Kieran J. Fallon, Associate General Counsel, (202) 452–5270 or Michael W. Waldron, Counsel, (202) 452–2798, Legal Division. For users of Telecommunications Device for the Deaf ("TDD") only, contact (202) 263–4869.

FDIC: Mindy West, Chief, Policy and Program Development, Division of Supervision and Consumer Protection, (202) 898–7221, or Robert W. Walsh, Review Examiner, Policy and Program Development, Division of Supervision and Consumer Protection, (202) 898–6649.

OTS: Rich Gaffin, Financial Analyst, Risk Modeling and Analysis, (202) 906–6181, or Richard Bennett, Senior Compliance Counsel, Regulations and Legislation Division, (202) 906–7409; Donna Deale, Director, Holding Company and International Policy, (202) 906–7488, Grovetta Gardineer, Managing Director, Corporate and International Activities, (202) 906–6068; Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Compensation arrangements are critical tools in the successful management of financial institutions. These arrangements serve several important and worthy objectives, including attracting skilled staff, promoting better organization-wide and employee performance, promoting employee retention, providing retirement security to employees, and allowing an organization's personnel costs to vary along with revenues.

It is clear, however, that compensation arrangements can provide executives and employees with incentives to take imprudent risks that are not consistent with the long-term health of the organization. For example, offering large payments to managers or employees to produce sizable increases in short-term revenue or profit—without regard for the potentially substantial short or long-term risks associated with that revenue or profit—can encourage managers or employees to take risks that are beyond the capability of the financial institution to manage and control.

Flawed incentive compensation practices in the financial industry were one of many factors contributing to the financial crisis that began in 2007. Banking organizations too often rewarded employees for increasing the organization's revenue or short-term profit without adequate recognition of the risks the employees' activities posed to the organization.

Having witnessed the damaging consequences that can result from misaligned incentives, many financial institutions are now re-examining their compensation structures with the goal of better aligning the interests of managers and other employees with the long-term health of the institution. Aligning the interests of shareholders and employees, however, is not always sufficient to protect the safety and soundness of a banking organization. Because banking organizations benefit directly or indirectly from the protections offered by the Federal safety net (including the ability of insured depository institutions to raise insured deposits and access the Federal Reserve's discount window and payment services), shareholders of a banking organization in some cases may be willing to tolerate a degree of risk that is inconsistent with the organization's safety and soundness. Thus, a review of incentive compensation arrangements and related corporate governance practices to ensure that they are effective from the standpoint of shareholders is not sufficient to ensure they adequately protect the safety and soundness of the organization.

A. Proposed Guidance

In October 2009, the Federal Reserve issued and requested comment on Proposed Guidance on Sound Incentive Compensation Policies ("proposed guidance") to help protect the safety and soundness of banking organizations supervised by the Federal Reserve and to promote the prompt improvement of incentive compensation practices throughout the banking industry.[1] The proposed guidance was based on three key principles. These principles provided that incentive compensation arrangements at a banking organization should—

- Provide employees incentives that appropriately balance risk and reward;
- Be compatible with effective controls and risk-management; and
- Be supported by strong corporate governance, including active and effective oversight by the organization's board of directors.

Because incentive compensation arrangements for executive and non-executive employees may pose safety and soundness risks if not properly structured, the proposed guidance applied to senior executives as well as other employees who, either individually or as part of a group, have the ability to expose the relevant banking organization to material amounts of risk.

With respect to the first principle, the proposed guidance, among other things, provided that a banking organization should ensure that its incentive compensation arrangements do not encourage short-term profits at the expense of short- and longer-term risks to the organization. Rather, the proposed guidance indicated that banking organizations should adjust the incentive compensation provided so that employees bear some of the risk associated with their activities. To be fully effective, these adjustments should take account of the full range of risks that the employees' activities may pose for the organization. The proposed guidance highlighted several methods that banking organizations could use to adjust incentive compensation awards or payments to take account of risk.

With respect to the second principle, the proposed guidance provided that banking organizations should integrate their approaches to incentive compensation arrangements with their risk-management and internal control frameworks to better monitor and control the risks these arrangements may create for the organization. Accordingly, the proposed guidance provided that banking organizations should ensure that risk-management personnel have an appropriate role in designing incentive compensation arrangements and assessing whether the arrangements may encourage imprudent risk-taking. In addition, the proposed guidance provided that banking organizations should track incentive compensation awards and payments, risks taken, and actual risk outcomes to

[1] 74 FR 55227 (October 27, 2009).

determine whether incentive compensation payments to employees are reduced or adjusted to reflect adverse risk outcomes.

With respect to the third principle, the proposed guidance provided that a banking organization's board of directors should play an informed and active role in ensuring that the organization's compensation arrangements strike the proper balance between risk and profit not only at the initiation of a compensation program, but on an ongoing basis. Thus, the proposed guidance provided that boards of directors should review and approve key elements of their organizations' incentive compensation systems across the organization, receive and review periodic evaluations of whether their organizations' compensation systems for all major segments of the organization are achieving their risk-mitigation objectives, and directly approve the incentive compensation arrangements for senior executives.

The Board's proposed guidance applied to all banking organizations supervised by the Federal Reserve. However, the proposed guidance also included provisions intended to reflect the diversity among banking organizations, both with respect to the scope and complexity of their activities, as well as the prevalence and scope of incentive compensation arrangements. Thus, for example, the proposed guidance provided that the reviews, policies, procedures, and systems implemented by a smaller banking organization that uses incentive compensation arrangements on a limited basis would be substantially less extensive, formalized, and detailed than those at a large, complex banking organization (LCBO) [2] that uses incentive compensation arrangements extensively. In addition, because sound incentive compensation practices are important to protect the safety and soundness of all banking organizations, the Federal Reserve announced that it would work with the other Federal banking agencies to promote application of the guidance to all banking organizations.

The Board invited comment on all aspects of the proposed guidance. The Board also specifically requested comments on a number of issues, including whether:

- The three core principles are appropriate and sufficient to help ensure that incentive compensation arrangements do not threaten the safety and soundness of banking organizations;
- There are any material legal, regulatory, or other impediments to the prompt implementation of incentive compensation arrangements and related processes that would be consistent with those principles;
- Formulaic limits on incentive compensation would likely promote the safety and soundness of banking organizations, whether applied generally or to specific types of employees or banking organizations;
- Market forces or practices in the broader financial services industry, such as the use of "golden parachute" or "golden handshake" arrangements to retain or attract employees, present challenges for banking organizations in developing and maintaining balanced incentive compensation arrangements;
- The proposed guidance would impose undue burdens on, or have unintended consequences for, banking organizations, particularly smaller, less complex organizations, and whether there are ways such potential burdens or consequences could be addressed in a manner consistent with safety and soundness; and
- There are types of incentive compensation plans, such as organization-wide profit sharing plans that provide for distributions in a manner that is not materially linked to the performance of specific employees or groups of employees, that could and should be exempted from, or treated differently under, the guidance because they are unlikely to affect the risk-taking incentives of all, or a significant number of employees.

B. Supervisory Initiatives

In connection with the issuance of the proposed guidance, the Federal Reserve announced two supervisory initiatives:

- A special horizontal review of incentive compensation practices at LCBO's; and
- A review of incentive compensation practices at other banking organizations as part of the regular, risk-focused examination process for these organizations.

The horizontal review was designed to assess: The potential for these arrangements or practices to encourage imprudent risk-taking; the actions an organization has taken or proposes to take to correct deficiencies in its incentive compensation practices; and the adequacy of the organization's compensation-related risk-management, control, and corporate governance processes.

II. Overview of Comments

The Board received 34 written comments on the proposed guidance, which were shared and reviewed by all of the Agencies. Commenters included banking organizations, financial services trade associations, service providers to financial organizations, representatives of institutional shareholders, labor organizations, and individuals. Most commenters supported the goal of the proposed guidance—to ensure that incentive compensation arrangements do not encourage imprudent or undue risk-taking at banking organizations. Commenters also generally supported the principles-based approach of the proposed guidance. For example, many commenters specifically supported the avoidance of formulaic or one-size-fits-all approaches to incentive compensation in the proposed guidance. These commenters noted financial organizations are very diverse and should be permitted to adopt incentive compensation measures that fit their needs, while also being consistent with safe and sound operations. Several commenters also asserted that a formulaic approach would inevitably lead to exaggerated risk-taking incentives in some situations while discouraging employees from taking reasonable and appropriate risks in others. One commenter also argued that unintended consequences would be more likely to result from a "rigid rulemaking" than from a flexible, principles-based approach.

Many commenters requested that the Board revise or clarify the proposed guidance in one or more respects. For example, several commenters asserted that the guidance should impose specific restrictions on incentive compensation at banking organizations or mandate certain corporate governance or risk-management practices. One commenter recommended a requirement that most compensation for senior executives be provided in the form of variable, performance-vested equity awards that are deferred for at least five years, and that stock option compensation be prohibited. Another commenter advocated a ban on "golden parachute" payments and on bonuses based on metrics related to one year or less of performance. Other commenters suggested that the guidance should require banking organizations to have an independent chairman of the board of directors, require annual majority voting for all directors, or provide for shareholders to have a vote (so called

[2] In the proposed guidance (issued by the Federal Reserve), the term LCBO was used as this is the term utilized by the Federal Reserve in describing such organizations. The final guidance uses the term Large Banking Organization (LBO), which encompasses terminology utilized by the OCC, FDIC and OTS.

"say-on-pay" voting provisions) on the incentive compensation arrangements for certain employees of banking organizations. Other commenters requested that certain types of compensation plans, such as organization-wide profit sharing plans or 401(k) plans or plans covered by the Employee Retirement Income Security Act (29 U.S.C. 1400 *et seq.*), be exempted from the scope of the guidance because they were unlikely to provide employees incentives to expose their banking organization to undue risk.

Several commenters, however, did not support the proposed guidance. Some of these commenters felt that the proposed guidance was unnecessary and that the principles used in the proposed guidance were not needed. These commenters argued that the existing system of financial regulation and enforcement is sufficient to address the concerns raised in the proposed guidance. Several commenters also thought that the proposed guidance was too vague to be helpful, and that the ambiguity of the proposed guidance would make compliance more difficult, leading to increased costs and regulatory uncertainty. Some commenters also argued that the guidance was not warranted because there is insufficient evidence that incentive compensation practices contributed to safety and soundness or financial stability problems, or questioned the authority of the Federal Reserve or the other Federal banking agencies to act in this area.

In addition, a number of commenters expressed concern that the proposed guidance would impose undue burden on banking organizations, particularly smaller, less complex organizations. These commenters believed that incentive compensation practices at smaller banking organizations were generally not problematic from a safety and soundness perspective.[3] A number of commenters suggested that all or most smaller banking organizations should be exempt from the guidance. A number of commenters expressed concerns that the proposed guidance would impose unreasonable demands on the boards of directors of banking organizations and especially smaller organizations.

Several commenters also expressed concern that the proposed guidance, if implemented, could impede the ability of banking organizations to attract or retain qualified staff and compete with other financial services providers. In light of these concerns, some commenters suggested that the guidance expressly allow banking organizations to enter into such compensation arrangements as they deem necessary for recruitment or retention purposes. A number of commenters also encouraged the Federal Reserve to work with other domestic and foreign supervisors and authorities to promote consistent standards for incentive compensation practices at financial institutions and a level competitive playing field for financial service providers.

The comments received on the proposed guidance are further discussed below.

III. Final Guidance

After carefully reviewing the comments on the proposed guidance, the Agencies have adopted final guidance that retains the same key principles embodied in the proposed guidance, with a number of adjustments and clarifications that address matters raised by the commenters. These principles are: (1) Incentive compensation arrangements at a banking organization should provide employees incentives that appropriately balance risk and financial results in a manner that does not encourage employees to expose their organizations to imprudent risk; (2) these arrangements should be compatible with effective controls and risk-management; and (3) these arrangements should be supported by strong corporate governance, including active and effective oversight by the organization's board of directors. The Agencies believe that it is important that incentive compensation arrangements at banking organizations do not provide incentives for employees to take risks that could jeopardize the safety and soundness of the organization. The final guidance seeks to address the safety and soundness risks of incentive compensation practices by focusing on the basic problem they can pose from a risk-management perspective, that is, incentive compensation arrangements—if improperly structured—can give employees incentives to take imprudent risks.

The Agencies believe the principles of the final guidance should help protect the safety and soundness of banking organizations and the stability of the financial system, and that adoption of the guidance is fully consistent with the Agencies' statutory mandate to protect the safety and soundness of banking organizations.[4]

The final guidance applies to all the banking organizations supervised by the Agencies, including national banks, State member banks, State nonmember banks, savings associations, U.S. bank holding companies, savings and loan holding companies, the U.S. operations of foreign banks with a branch, agency or commercial lending company in the United States, and Edge and agreement corporations (collectively, "banking organizations").

A number of changes have been made to the proposed guidance in response to comments. For example, the final guidance includes several provisions designed to reduce burden on smaller banking organizations and other banking organizations that are not significant users of incentive compensation. The Agencies also have made a number of changes to clarify the scope, intent, and terminology of the final guidance.

A. Scope of Guidance

Compensation practices were not the sole cause of the financial crisis, but they certainly were a contributing cause—a fact recognized by 98 percent of the respondents to a survey of banking organizations engaged in wholesale banking activities conducted in 2009 by the Institute of International Finance and publicly by a number of individual financial institutions.[5] Moreover, the problems caused by improper compensation practices were not limited to U.S. financial institutions, but were evident at major financial institutions worldwide, a fact recognized by international bodies such

[3] On the other hand, one commenter requested that the proposed guidance not be enforced differently at larger institutions solely because of their size.

[4] *See, e.g.* 12 U.S.C. 1818(b). The Agencies regularly issue supervisory guidance based on the authority in section 8 of the Federal Deposit Insurance (FDI) Act. Guidance is used to identify practices that the Agencies believe would constitute an unsafe or unsound practice and/or identify risk-management systems, controls, or other practices that the Agencies believe would assist banking organizations in ensuring that they operate in a safe and sound manner. Savings associations should also refer to OTS's rule on employment contracts 12 CFR 563.39.

[5] *See*, Institute of International Finance, Inc. (2009), *Compensation in Financial Services: Industry Progress and the Agenda for Change* (Washington: IIF, March) available at *http://www.oliverwyman.com/ow/pdf_files/OW_En_FS_Publ_2009_CompensationInFS.pdf. See also* UBS, Shareholder Report on UBS's Write-Downs, April 18, 2008, pp. 41–42 (identifies incentive effects of UBS compensation practices as contributing factors in losses suffered by UBS due to exposure to the subprime mortgage market) available at *http://www.ubs.com/1/ShowMedia/investors/agm?contentId=140333&name=080418ShareholderReport.pdf.*

as the Financial Stability Board (FSB) and the Senior Supervisors Group.[6]

Because compensation arrangements for executive and non-executive employees alike may pose safety and soundness risks if not properly structured, these principles and the final guidance apply to senior executives as well as other employees who, either individually or as part of a group, have the ability to expose the banking organization to material amounts of risk.[7] These employees are referred to as "covered employees" in the final guidance. In response to comments, the final guidance clarifies that an employee or group of employees has the ability to expose a banking organization to material amounts of risk if the employees' activities are material to the organization or are material to a business line or operating unit that is itself material to the organization.

Some commenters suggested that certain categories of employees, such as tellers, bookkeepers, administrative assistants, or employees who process but do not originate transactions, do not expose banking organizations to significant levels of risk and therefore should be exempted from coverage under the final guidance. The final guidance, like the proposed guidance, indicates that the facts and circumstances will determine which jobs or categories of employees have the ability to expose the organization to material risks and which jobs or categories of employees may be outside the scope of the guidance. The final guidance recognizes, for example, that tellers, bookkeepers, couriers, and data processing personnel would likely not expose organizations to significant risks of the types meant to be addressed by the guidance. On the other hand, employees or groups of employees who do not originate business or approve transactions could still expose a banking organization to material risk in some circumstances. Therefore, the Agencies do not believe it would be appropriate to provide a blanket exemption from the final guidance for any category of covered employees that would apply to all banking organizations.

After reviewing the comments, the Agencies have retained the principles-based framework of the proposed guidance. The Agencies believe this approach is the most effective way to address incentive compensation practices, given the differences in the size and complexity of banking organizations covered by the guidance and the complexity, diversity, and range of use of incentive compensation arrangements by those organizations. For example, activities and risks may vary significantly across banking organizations and across employees within a particular banking organization. For this reason, the methods used to achieve appropriately risk-sensitive compensation arrangements likely will differ across and within organizations, and use of a single, formulaic approach likely will provide at least some employees with incentives to take imprudent risks.

The Agencies, however, have not modified the guidance, as some commenters requested, to provide that a banking organization may enter into incentive compensation arrangements that are inconsistent with the principles of safety and soundness whenever the organization believes that such action is needed to retain or attract employees. The Agencies recognize that while incentive compensation serves a number of important goals for banking organizations, including attracting and retaining skilled staff, these goals do not override the requirement for banking organizations to have incentive compensation systems that are consistent with safe and sound operations and that do not encourage imprudent risk-taking. The final guidance provides banking organizations with considerable flexibility in structuring their incentive compensation arrangements in ways that both promote safety and soundness and that help achieve the arrangements' other objectives.

The Agencies are mindful, however, that banking organizations operate in both domestic and international competitive environments that include financial services providers that are not subject to prudential oversight by the Agencies and, thus, not subject to the final guidance. The Agencies also recognize that international coordination in this area is important both to promote competitive balance and to ensure that internationally active banking organizations are subject to consistent requirements. For this reason, the Agencies will continue to work with their domestic and international counterparts to foster sound compensation practices across the financial services industry. Importantly, the final guidance is consistent with both the Principles for Sound Compensation Practices and the related Implementation Standards adopted by the FSB in 2009.[8] A number of commenters expressed concern about the levels of compensation paid to some employees of banking organizations. As noted above, several commenters requested that the Board eliminate or limit certain types of incentive compensation for employees of banking organizations. Other commenters advocated that certain forms of compensation be required. For example, some commenters urged a ban on incentive compensation payments made in stock options, while others supported their mandatory use. Comments also were received with regard to the use of other types of stock-based compensation, such as restricted stock and stock appreciation rights. Consistent with its principles-based approach, the final guidance does not mandate or prohibit the use of any specific forms of payment for incentive compensation or establish mandatory compensation levels or caps. Rather, the forms and levels of incentive compensation payments at banking organizations are expected to reflect the principles of the final guidance in a manner tailored to the business, risk profile, and other attributes of the banking organization. Incentive compensation structures that offer employees rewards for increasing short-term profit or revenue, without taking into account risk, may encourage imprudent risk-taking even if they meet formulaic levels or include or exclude certain forms of compensation. On the other hand, incentive compensation arrangements of various forms and levels may be properly structured so as not to encourage imprudent risk-taking.

In response to comments, the final guidance clarifies in a number of respects the expectation of the Agencies that the impact of the final guidance on

[6] *See,* Financial Stability Forum (2009), *FSF Principles for Sound Compensation Practices (87 KB PDF)* (Basel, Switzerland: FSF, April), available at *http://www.financialstabilityboard.org/publications/r_0904b.pdf;* and Senior Supervisors Group (2009), *Risk-management Lessons from the Global Banking Crisis of 2008* (Basel, Switzerland: SSG, October), available at *http://www.newyorkfed.org/newsevents/news/banking/2009/ma091021.html.* The Financial Stability Forum was renamed the Financial Stability Board in April 2009.

[7] In response to a number of comments requesting clarification regarding the scope of the term "senior executives" as used in the guidance, the final guidance states that "senior executive" includes, at a minimum, "executive officers" within the meaning of the Board's Regulation O (12 CFR 215.2(e)(1)) and, for publicly traded companies, "named officers" within the meaning of the Securities and Exchange Commission's rules on disclosure of executive compensation (17 CFR 229.402(a)(3)). Savings associations should also refer to OTS's rule on loans by savings associations to their executive officers, directors, and principal shareholders. 12 CFR 563.43.

[8] *See,* Financial Stability Forum, FSF Principles for Sound Compensation Practices, in note 6; and Financial Stability Board (2009), FSB Principles for Sound Compensation Practices: Implementation Standards (35 KB PDF) (Basel, Switzerland: FSB, September), available at *http://www.financialstabilityboard.org/publications/r_090925c.pdf.*

banking organizations will vary depending on the size and complexity of the organization and its level of usage of incentive compensation arrangements. It is expected that the guidance will generally have less impact on smaller banking organizations, which typically are less complex and make less use of incentive compensation arrangements than larger banking organizations. Because of the size and complexity of their operations, large banking organizations (LBOs) [9] should have and adhere to systematic and formalized policies, procedures and processes. These are considered important in ensuring that incentive compensation arrangements for all covered employees are identified and reviewed by appropriate levels of management (including the board of directors where appropriate and control units), and that they appropriately balance risks and rewards . The final guidance highlights the types of policies, procedures, and systems that LBOs should have and maintain, but that are not expected of other banking organizations. It is expected that, particularly in the case of LBO's, adoption of this principles-based approach will require an iterative supervisory process to ensure that the embedded flexibility that allows for customized arrangements for each banking organization does not undermine effective implementation of the guidance.

With respect to U.S. operations of foreign banks, incentive compensation policies, including management, review, and approval requirements for a foreign bank's U.S. operations should be coordinated with the foreign banking organization's group-wide policies developed in accordance with the rules of the foreign banking organization's home country supervisor. These policies and practices should be consistent with the foreign bank's overall corporate and management structure and its framework for risk-management and internal controls, as well as with the final guidance.

[9] For purposes of the final guidance, LBOs include, in the case of banking organizations supervised by (i) the Federal Reserve, large, complex banking organizations as identified by the Federal Reserve for supervisory purposes; (ii) the OCC, the largest and most complex national banks as defined in the Large Bank Supervision booklet of the Comptroller's Handbook; (iii) the FDIC, large complex insured depository institutions (IDIs); and (iv) the OTS, the largest and most complex savings associations and savings and loan holding companies. The term "smaller banking organizations" is used to refer to banking organizations that are not LBOs under the relevant agency's standard.

B. Balanced Incentive Compensation Arrangements

The first principle of the final guidance is that incentive compensation arrangements should provide employees incentives that appropriately balance risks and rewards in a manner that does not encourage imprudent risk-taking. The amounts of incentive pay flowing to covered employees should take account of and adjust for the risks and losses—as well as gains—associated with employees' activities, so that employees do not have incentives to take imprudent risk. The formulation of this principle is slightly different from that used in the proposed guidance, which stated that organizations should provide employees incentives that do not encourage imprudent risk-taking beyond the organization's ability to effectively identify and manage risk. This change was made to clarify that risk-management procedures and control functions that ordinarily limit risk-taking do not obviate the need to identify covered employees and to develop incentive compensation arrangements that properly balance risk-taking incentives. To be fully effective, balancing adjustments to incentive compensation arrangements should take account of the full range of risks that employees' activities may pose for the organization, including credit, market, liquidity, operational, legal, compliance, and reputational risks.

A number of commenters expressed the view that increased controls could mitigate a lack of balance in incentive compensation arrangements. Under this view, unbalanced incentive compensation arrangements could be addressed either through the modification of the incentive compensation arrangements or through the application of additional or more effective risk controls to the business. The final guidance recognizes that strong and effective risk-management and internal control functions are critical to the safety and soundness of banking organizations. However, the Agencies believe that poorly designed or managed incentive compensation arrangements can themselves be a source of risk to banking organizations and undermine the controls in place. Unbalanced incentive compensation arrangements can place substantial strain on the risk-management and internal control functions of even well-managed organizations. Furthermore, poorly balanced incentive compensation arrangements can encourage employees to take affirmative actions to weaken the organization's risk-management or internal control functions.

The final guidance, like the proposed guidance, outlines four methods that are currently in use to make compensation more sensitive to risk. These are risk adjustment of awards; deferral of payment; longer performance periods; and reduced sensitivity to short-term performance. Each method has advantages and disadvantages. For example, incentive compensation arrangements for senior executives at LBOs are likely to be better balanced if they involve deferral of a substantial portion of the executives' incentive compensation over a multi-year period, with payment made in the form of stock or other equity-based instruments and with the number of instruments ultimately received dependent on the performance of the organization (or, ideally, the performance of the executive) during the deferral period. Deferral, however, may not be effective in constraining the incentives of employees who may have the ability to expose the organization to long-term risks, as these risks may not be realized during a reasonable deferral period. For this reason, the final guidance recognizes that in some cases, two or more methods may be needed in combination (*e.g.,* risk adjustment of awards and deferral of payment) to achieve an incentive compensation arrangement that properly balances risk and reward.

Furthermore, the few methods noted in the final guidance are not exclusive, and other effective methods or variations may exist or be developed. Methods for achieving balanced compensation arrangements at one organization may not be effective at another organization. Each organization is responsible for ensuring that its incentive compensation arrangements are consistent with the safety and soundness of the organization. The guidance clarifies that LBOs should actively monitor industry, academic, and regulatory developments in incentive compensation practices and theory and be prepared to incorporate into their incentive compensation systems new or emerging methods that are likely to improve the organization's long-term financial well-being and safety and soundness.

In response to a question asked in the proposed guidance, several commenters requested that certain types of compensation plans be treated as beyond the scope of the final guidance because commenters believed these plans do not threaten the safety and soundness of banking organizations. These included organization-wide profit sharing plans, 401(k) plans, defined benefit plans, and ERISA plans.

The final guidance does not exempt any broad categories of compensation plans based on their tax structure, corporate form, or status as a retirement or other employee benefit plans, because any type of incentive compensation plan may be implemented in a way that increases risk inappropriately. In response to these comments, however, the final guidance recognizes that the term "incentive compensation" does not include arrangements that are based solely on the employees' level of compensation and that do not vary based on one or more performance metrics (*e.g.,* a 401(k) plan under which the organization contributes a set percentage of an employee's salary). In addition, the final guidance notes that incentive compensation plans that provide for awards based solely on overall organization-wide performance are unlikely to provide employees, other than senior executives and individuals who have the ability to materially affect the organization's overall performance, with unbalanced risk-taking incentives.

In many cases, there were comments on both sides of an issue, with some wanting less or no guidance and others wanting tough, or very specific prohibitions. For example, a number of commenters argued that the use of "golden parachutes" and similar retention and recruitment provisions to retain employees should be prohibited because such provisions have been abused in the past.[10] A larger number of commenters, however, argued against a per se ban on such arrangements, stating that these provisions were in some cases essential elements of effective recruiting and retention packages and are not necessarily a threat to safety and soundness. One commenter stated that golden parachute payments triggered by changes in control of a banking organization are too speculative to encourage imprudent risk-taking by employees.

The final guidance, like the proposed guidance, provides that banking organizations should carefully consider the potential for golden parachutes and similar arrangements to affect the risk-taking behavior of employees. The final guidance adds language noting that arrangements that provide an employee with a guaranteed payout upon departure from an organization regardless of performance may neutralize the effect of any balancing features included in the arrangement to help prevent imprudent risk-taking. Organizations should consider including balancing features—such as risk adjustments or deferral requirements—in golden parachutes and similar arrangements to mitigate the potential for the arrangements to encourage imprudent risk-taking.

Provisions that require a departing employee to forfeit deferred incentive compensation payments may also weaken the effectiveness of a deferral arrangement if the departing employee is able to negotiate a "golden handshake" arrangement with the employee's new organization.[11] Golden handshake provisions present special issues for banking organizations and supervisors, some of which are discussed in the final guidance, because it is the action of the employee's new employer—which may not be a regulated institution—that can affect the current employer's ability to properly align the employee's interest with the organization's long-term health. The final guidance states that LBOs should monitor whether golden handshake arrangements are materially weakening the organization's efforts to constrain the risk-taking incentives of employees. The Agencies will continue to work with banking organizations and others to develop appropriate methods for addressing any effect that such arrangements may have on the safety and soundness of banking organizations.

C. Compatibility With Effective Controls and Risk-Management

The second principle of the final guidance states that a banking organization's risk-management processes and internal controls should reinforce and support the development and maintenance of balanced incentive compensation arrangements. Banking organizations should integrate incentive compensation arrangements into their risk-management and internal control frameworks to ensure that balance is achieved. In particular, banking organizations should have appropriate controls to ensure that processes for achieving balance are followed. Appropriate personnel, including risk-management personnel, should have input in the design and assessment of incentive compensation arrangements. Compensation for risk-management and control personnel should be sufficient to attract and retain appropriately qualified personnel and such compensation should not be based substantially on the financial performance of the business unit that they review. Rather, their performance should be based primarily on the achievement of the objectives of their functions (*e.g.,* adherence to internal controls).

Banking organizations should monitor incentive compensation awards, risks taken and actual risk outcomes to determine whether incentive compensation payments to employees are reduced to reflect adverse risk outcomes. Incentive compensation arrangements that are found not to appropriately reflect risk should be modified as necessary. Organizations should not only provide rewards when performance standards are met or exceeded, they should also reduce compensation when standards are not met. If senior executives or other employees are paid substantially all of their potential incentive compensation when risk outcomes are materially worse than expected, employees may be encouraged to take large risks in the hope of substantially increasing their personal compensation, knowing that their downside risks are limited. Simply put, incentive compensation arrangements should not create a "heads I win, tails the firm loses" expectation.

A significant number of comments expressed concerns about the scope of the applicability of the proposed guidance to smaller banking organizations as well as the burden the proposed guidance would impose on these organizations. In response to these comments, the final guidance has made more explicit the Agencies' view that the monitoring methods and processes used by a banking organization should be commensurate with the size and complexity of the organization, as well as its use of incentive compensation. Thus, for example, a smaller organization that uses incentive compensation only to a limited extent may find that it can appropriately monitor its arrangements through normal management processes. The final guidance also discusses specific aspects of policies and procedures related to controls and risk-management that are applicable to LBOs and are not expected of other banking organizations.

D. Strong Corporate Governance

The third principle of the final guidance is that incentive compensation programs at banking organizations should be supported by strong corporate governance, including active and effective oversight by the organization's

[10] Arrangements that provide for an employee (typically a senior executive), upon departure from an organization or a change in control of the organization, to receive large additional payments or the accelerated payment of deferred amounts without regard to risk or risk outcomes are sometimes called "golden parachutes."

[11] Golden handshakes are arrangements that compensate an employee for some or all of the estimated, non-adjusted value of deferred incentive compensation that would have been forfeited upon departure from the employee's previous employment.

board of directors.[12] The board of directors of an organization is ultimately responsible for ensuring that the organization's incentive compensation arrangements for all covered employees—not solely senior executives—are appropriately balanced and do not jeopardize the safety and soundness of the organization. Boards of directors should receive data and analysis from management or other sources that are sufficient to allow the board to assess whether the overall design and performance of the organization's incentive compensation arrangements are consistent with the organization's safety and soundness. These reviews and reports should be appropriately scoped to reflect the size and complexity of the banking organization's activities and the prevalence and scope of its incentive compensation arrangements. The structure, composition, and resources of the board of directors should be constructed to permit effective oversight of incentive compensation. The board of directors should, for example, have, or have access to, a level of expertise and experience in risk-management and compensation practices in the financial services sector that is appropriate for the nature, scope, and complexity of the organization's activities.[13]

Given the key role of senior executives in managing the overall risk-taking activities of an organization, the board of directors should directly approve compensation arrangements involving senior executives and closely monitor such payments and their sensitivity to risk outcomes. If the compensation arrangements for a senior executive include a deferral of payment or "clawback" provision, then the review should include sufficient information to determine if the provision has been triggered and executed as planned. The board also should approve and document any material exceptions or adjustments to the incentive compensation arrangements established for senior executives and should carefully consider and monitor the effects of any approved exceptions or adjustments to the arrangements.

In response to comments expressing concern about the impact of the proposed guidance on smaller banking organizations, the final guidance identifies specific aspects of the corporate governance provisions of the final guidance that are applicable to LBOs or other organizations that use incentive compensation to a significant degree, and are not expected of other banking organizations. In particular, boards of directors of LBOs and other organizations that use incentive compensation to a significant degree should actively oversee the development and operation of the organization's incentive compensation policies, systems and related control processes. If such an organization does not already have a compensation committee, reporting to the full board, with primary responsibility for incentive compensation arrangements, the board should consider establishing one. LBOs, in particular, should follow a systematic approach, outlined in the final guidance, in developing compensation systems that have balanced incentive compensation arrangements.

Several commenters expressed concern that the proposed guidance appeared to create a new substantive qualification for boards of directors that requires the boards of all banking organizations to have members with expertise in compensation and risk-management issues. A group of commenters noted that such a requirement could limit an already small pool of people suitable to serve on boards of directors of banking organizations and that smaller organizations may not have access to, or the resources to compensate, directors meeting these additional requirements. Some commenters also stated that terms such as "closely monitor" and "actively oversee" could be read to impose a higher standard on directors for their oversight of incentive compensation issues. On the other hand, one commenter noted that current law requires financial expertise on the boards of directors and audit committees of public companies and recommended that specialized risk-management competencies be required on the boards of all banking organizations.

To address concerns raised by these commenters, the final guidance clarifies that risk-management and compensation expertise and experience at the board level may be present collectively among the members of the board, and may come from formal training or from experience in addressing risk-management and compensation issues, including as a director, or may be obtained from advice received from outside counsel, consultants, or other experts with expertise in incentive compensation and risk-management. Furthermore, the final guidance recognizes that smaller organizations with less complex and extensive incentive compensation arrangements may not find it necessary or appropriate to require specially tailored board expertise or to retain and use outside experts in this area.

A banking organization's disclosure practices should support safe and sound incentive compensation arrangements. Specifically, a banking organization should supply an appropriate amount of information concerning its incentive compensation arrangements and related risk-management, control, and governance processes to shareholders to allow them to monitor and, where appropriate, take actions to restrain the potential for such arrangements to encourage employees to take imprudent risks.

While some commenters supported increased public disclosure of the incentive compensation practices of banking organizations, a greater number expressed concerns that any required disclosures of incentive compensation information by banking organizations be tailored to protect the privacy of employees and take account of the impact of such disclosures on the ability of organizations to attract and retain talent. Several commenters supported an alignment of required disclosures with existing requirements for public companies, arguing that additional requirements would add to the regulatory burden on banking organizations.

The proposed guidance did not impose specific disclosure requirements on banking organizations. The final guidance makes no significant changes from the proposed guidance with regard to disclosures, and states that the scope and level of information disclosed by a banking organization should be tailored to the nature and complexity of the organization and its incentive compensation arrangements. The final guidance notes that banking organizations should comply with the incentive compensation disclosure requirements of the Federal securities law and other laws, as applicable.

A number of commenters supported additional governance requirements for banking organizations, such as "say on pay" provisions requiring shareholder approval of compensation plans, separation of the board chair and chief executive officer positions, majority voting for directors, annual elections for all directors, and improvements to the audit function. Some of these comments seek changes in Federal laws beyond the jurisdiction of the Agencies; others

[12] In the case of foreign banking organizations (FBOs), the term "board of directors" refers to the relevant oversight body for the firm's U.S. operations, consistent with the FBO's overall corporate and management structure.

[13] Savings associations should also refer to OTS's rule on directors, officers, and employees. 12 CFR 563.33.

address issues—such as "say on pay" requirements—that are currently under consideration by the Congress. The final guidance does not preempt or preclude these proposals, and indicates that the Agencies expect organizations to comply with all applicable statutory disclosure, voting and other requirements.

E. Continuing Supervisory Initiatives

The horizontal review of incentive compensation practices at LBOs is well underway. While this initiative is being led by the Federal Reserve, the other Federal banking agencies are participating in the work. Supervisory teams have collected substantial information from LBOs concerning existing incentive compensation practices and related risk-management and corporate governance processes. In addition, LBOs have submitted analyses of shortcomings or "gaps" in existing practices relative to the principles contained in the proposed guidance, as well as plans for addressing identified weaknesses. Some organizations already have implemented changes to make their incentive compensation arrangements more risk sensitive. Indeed, many organizations are recognizing that strong risk-management and control systems are not sufficient to protect the organization from undue risks, including risks arising from unbalanced incentive compensation arrangements. Other organizations have considerably more work to do, such as developing processes that can effectively compare incentive compensation payments to risks and risk outcomes. The Agencies intend to continue to regularly review incentive compensation arrangements and related risk-management, control, and corporate governance practices of LBOs and to work with these organizations through the supervisory process to promptly correct any deficiencies that may be inconsistent with safety and soundness.[14]

The Agencies intend to actively monitor the actions being taken by banking organizations with respect to incentive compensation arrangements and will review and update this guidance as appropriate to incorporate best practices that emerge. In addition, in order to monitor and encourage improvements, Federal Reserve staff will prepare a report, in consultation with the other Federal banking agencies, after the conclusion of 2010 on trends and developments in compensation practices at banking organizations.

IV. Other Matters

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR Part 1320 Appendix A.1), the Agencies have determined that certain aspects of the final guidance constitute a collection of information. The Board made this determination under the authority delegated to the Board by the Office of Management and Budget (OMB).

An agency may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number. Any changes to the Agencies' regulatory reporting forms that may be made in the future to collect information related to incentive compensation arrangements would be addressed in a separate **Federal Register** notice.

The final guidance includes provisions that state large banking organizations (LBOs) should (i) have policies and procedures that identify and describe the role(s) of the personnel and units authorized to be involved in incentive compensation arrangements, identify the source of significant risk-related inputs, establish appropriate controls governing these inputs to help ensure their integrity, and identify the individual(s) and unit(s) whose approval is necessary for the establishment or modification of incentive compensation arrangements; (ii) create and maintain sufficient documentation to permit an audit of the organization's processes for incentive compensation arrangements; (iii) have any material exceptions or adjustments to the incentive compensation arrangements established for senior executives approved and documented by its board of directors; and (iv) have its board of directors receive and review, on an annual or more frequent basis, an assessment by management of the effectiveness of the design and operation of the organization's incentive compensation system in providing risk-taking incentives that are consistent with the organization's safety and soundness.

The OCC, FDIC, and OTS have obtained emergency approval under 5 CFR 1320.13 for issuance of the guidance and will issue a **Federal Register** notice shortly for 60 days of comment as part of the regular PRA clearance process. During the regular PRA clearance process the estimated average response time may be re-evaluated.

The Board has approved the collection of information under its delegated authority. As discussed earlier in this notice, on October 27, 2009, the Board published in the **Federal Register** a notice requesting comment on the proposed Guidance on Sound Incentive Compensation Policies (74 FR 55227). The comment period for this notice expired November 27, 2009. The Board received three comments that specifically addressed paperwork burden. The commenters asserted that the hourly estimate of the cost of compliance should be considerably higher than the Board projected.

The final guidance clarifies in a number of respects the expectation that the effect of the final guidance on banking organizations will vary depending on the size and complexity of the organization and its level of use of incentive compensation arrangements. For example, the final guidance makes more explicit the view that the monitoring methods and processes used by a banking organization should be commensurate with the size and complexity of the organization, as well as its use of incentive compensation. In addition, the final guidance highlights the types of policies, procedures, systems, and specific aspects of corporate governance that LBOs should have and maintain, but that are not expected of other banking organizations.

In response to comments and taking into account the considerations discussed above, the Board is increasing the burden estimate for implementing or modifying policies and procedures to monitor incentive compensation. For this purpose, consideration of burden is limited to items in the final guidance constituting an information collection within the meaning of the PRA. The Board estimates that 1,502 large respondents would take, on average, 480 hours (two months) to modify policies and procedures to monitor incentive compensation. The Board estimates that 5,058 small respondents would take, on average, 80 hours (two business weeks)

[14] For smaller banking organizations, the Federal Reserve is gathering consistent information through regularly scheduled examinations and the normal supervisory process. The focus of the data gathering is to identify the types of incentive plans in place, the job types covered and the characteristics, prevalence and level of documentation available for those incentive compensation plans. After comparing and analyzing the information collected, supervisory efforts and expectations will be scaled appropriately to the size and complexity of the organization and its incentive compensation arrangements. For these smaller banking organizations, the expectation is that there will be very limited, if any, targeted examination work or supervisory follow-up. To the extent that any of these organizations has incentive compensation arrangements, the policies and systems necessary to monitor these arrangements are expected to be substantially less extensive, formalized and detailed than those of larger, more complex organizations.

to establish or modify policies and procedures to monitor incentive compensation. The total one-time burden is estimated to be 1,125,600 hours. In addition, the Board estimates that, on a continuing basis, respondents would take, on average, 40 hours (one business week) each year to maintain policies and procedures to monitor incentive compensation arrangements and estimates the annual on-going burden to be 262,400 hours. The total annual PRA burden for this information collection is estimated to be 1,388,000 hours.

General Description of Report

This information collection is authorized pursuant to:

Board—Sections 11(a), 11(i), 25, and 25A of the Federal Reserve Act (12 U.S.C. 248(a), 248(i), 602, and 611,), section 5 of the Bank Holding Company Act (12 U.S.C. 1844), and section 7(c) of the International Banking Act (12 U.S.C. 3105(c)).

OCC—12 U.S.C. 161, and Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1).

FDIC—Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1).

OTS—Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1) and Sections 4, 5, and 10 of the Home Owners' Loan Act (12 U.S.C. 1463, 1464, and 1467a).

The Agencies expect to review the policies and procedures for incentive compensation arrangements as part of their supervisory processes. To the extent the Agencies collect information during an examination of a banking organization, confidential treatment may be afforded to the records under exemption 8 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(8).

Board

Title of Information Collection: Recordkeeping Provisions Associated with the Guidance on Sound Incentive Compensation Policies.

Agency form number: FR 4027.

OMB control number: 7100—to be assigned.

Frequency: Annually.

Affected Public: Businesses or other for-profit.

Respondents: U.S. bank holding companies, State member banks, Edge and agreement corporations, and the U.S. operations of foreign banks with a branch, agency, or commercial lending company subsidiary in the United States.

Estimated average hours per response: Implementing or modifying policies and procedures: large respondents 480 hours; small respondents 80 hours. Maintenance of policies and procedures: 40 hours.

Estimated number of respondents: Large respondents, 1,502; Small respondents, 5,058.

Estimated total annual burden: 1,388,000 hours.

As mentioned above, the OCC, FDIC, and OTS have obtained emergency approval under 5 CFR 1320.13. The OCC and OTS approvals were obtained prior to the Board revising its burden estimates based on the comments received. For this reason, the OCC and OTS are publishing in this notice the original burden estimates. They will issue a **Federal Register** notice shortly for 60 days of comment as part of the regular PRA clearance process. During the regular PRA clearance process the estimated average response time may be re-evaluated based on comments received. The FDIC is publishing in this notice the revised burden estimates developed by the Board based on the comments received. The FDIC will issue a **Federal Register** notice shortly for 60 days of comment as part of the regular PRA clearance process and, during the regular PRA clearance process, the estimated average response time may be re-evaluated based on comments received.

OCC

Title of Information Collection: Guidance on Sound Incentive Compensation Policies.

Agency form number: N/A.

OMB control number: 1557–0245.

Frequency: Annually.

Affected Public: Businesses or other for-profit.

Respondents: National banks.

Estimated average hours per response: 40 hours.

Estimated number of respondents: 1,650.

Estimated total annual burden: 66,000 hours.

FDIC

Title of Information Collection: Guidance on Sound Incentive Compensation Policies.

Agency form number: N/A.

OMB control number: 3064–0175.

Frequency: Annually.

Affected Public: Businesses or other for-profit.

Respondents: Insured State nonmember banks.

Estimated average hours per response: Implementing or modifying policies and procedures: large respondents 480 hours; small respondents 80 hours. Maintenance of policies and procedures: 40 hours.

Estimated number of respondents: Implementing or modifying policies and procedures: large respondents—20; small respondents—4,870; Maintenance of policies and procedures: 4,890.

Estimated total annual burden: 594,800 hours.

OTS

Title of Information Collection: Sound Incentive Compensation Guidance.

Agency form number: N/A.

OMB control number: 1550–0129.

Frequency: Annually.

Affected Public: Businesses or other for-profit.

Respondents: Savings associations.

Estimated average hours per response: 40 hours.

Estimated number of respondents: 765.

Estimated total annual burden: 30,600 hours.

The Agencies have a continuing interest in the public's opinions of our collections of information. At any time, comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to:

Board

Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

OCC

Communications Division, Office of the Comptroller of the Currency, Mailstop 2–3, Attention: 1557–0245, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

FDIC

All comments should refer to the name of the collection, "Guidance on Sound Incentive Compensation Policies." Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- *E-mail: comments@fdic.gov.*
- *Mail:* Gary Kuiper (202.898.3877), Counsel, Federal Deposit Insurance

Corporation, F–1072, 550 17th Street, NW., Washington, DC 20429.

• *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

OTS

Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906–6518; or send an e-mail to *infocollection.comments@ots.treas.gov.* OTS will post comments and the related index on the OTS Internet Site at *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., Washington DC 20552 by appointment. To make an appointment, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755.

OMB

Additionally, please send a copy of your comments by mail to: Office of Management and Budget, 725 17th Street, NW., #10235, Paperwork Reduction Project (insert Agency OMB control number), Washington, DC 20503. Comments can also be sent by fax to (202) 395–6974.

While the Regulatory Flexibility Act (5 U.S.C. 603(b)) does not apply to this guidance, because it is not being adopted as a rule, the Agencies have considered the potential impact of the proposed guidance on small banking organizations. For the reasons discussed in the **SUPPLEMENTARY INFORMATION** above, the Agencies believe that issuance of the proposed guidance is needed to help ensure that incentive compensation arrangements do not pose a threat to the safety and soundness of banking organizations, including small banking organizations. The Board in the proposed guidance sought comment on whether the guidance would impose undue burdens on, or have unintended consequences for, small organizations and whether there were ways such potential burdens or consequences could be addressed in a manner consistent with safety and soundness.

It is estimated that the guidance will apply to 8,763 small banking organizations. *See* 13 CFR 121.201. As noted in the "Supplementary Information" above, a number of commenters expressed concern that the proposed guidance would impose undue burden on smaller organizations. The Agencies have carefully considered the comments received on this issue. In response to these comments, the final guidance includes several provisions designed to reduce burden on smaller banking organizations. For example, the final guidance has made more explicit the Agencies' view that the monitoring methods and processes used by a banking organization should be commensurate with the size and complexity of the organization, as well as its use of incentive compensation. The final guidance also highlights the types of policies, procedures, and systems that LBOs should have and maintain, but that are not expected of other banking organizations. Like the proposed guidance, the final guidance focuses on those employees who have the ability, either individually or as part of a group, to expose a banking organization to material amounts of risk and is tailored to account for the differences between large and small banking organizations.

V. Final Guidance

The text of the final guidance is as follows:

Guidance on Sound Incentive Compensation Policies

I. Introduction

Incentive compensation practices in the financial industry were one of many factors contributing to the financial crisis that began in mid-2007. Banking organizations too often rewarded employees for increasing the organization's revenue or short-term profit without adequate recognition of the risks the employees' activities posed to the organization.[1] These practices exacerbated the risks and losses at a number of banking organizations and resulted in the misalignment of the interests of employees with the long-term well-being and safety and soundness of their organizations. This document provides guidance on sound incentive compensation practices to banking organizations supervised by the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision (collectively, the "Agencies").[2] This guidance is intended to assist banking organizations in designing and implementing incentive compensation arrangements and related policies and procedures that effectively consider potential risks and risk outcomes.[3]

Alignment of incentives provided to employees with the interests of shareholders of the organization often also benefits safety and soundness. However, aligning employee incentives with the interests of shareholders is not always sufficient to address safety-and-soundness concerns. Because of the presence of the Federal safety net, (including the ability of insured depository institutions to raise insured deposits and access the Federal Reserve's discount window and payment services), shareholders of a banking organization in some cases may be willing to tolerate a degree of risk that is inconsistent with the organization's safety and soundness. Accordingly, the Agencies expect banking organizations to maintain incentive compensation practices that are consistent with safety and soundness, even when these practices go beyond those needed to align shareholder and employee interests.

To be consistent with safety and soundness, incentive compensation arrangements[4] at a banking organization should:

• Provide employees incentives that appropriately balance risk and reward;

• Be compatible with effective controls and risk-management; and

• Be supported by strong corporate governance, including active and effective oversight by the organization's board of directors.

These principles, and the types of policies, procedures, and systems that banking organizations should have to help ensure compliance with them, are discussed later in this guidance.

The Agencies expect banking organizations to regularly review their incentive compensation arrangements

[1] Examples of risks that may present a threat to the organization's safety and soundness include credit, market, liquidity, operational, legal, compliance, and reputational risks.

[2] As used in this guidance, the term "banking organization" includes national banks, State member banks, State nonmember banks, savings associations, U.S. bank holding companies, savings and loan holding companies, Edge and agreement corporations, and the U.S. operations of foreign banking organizations (FBOs) with a branch, agency, or commercial lending company in the United States.

[3] This guidance and the principles reflected herein are consistent with the *Principles for Sound Compensation Practices* issued by the Financial Stability Board (FSB) in April 2009, and with the FSB's *Implementation Standards* for those principles, issued in September 2009.

[4] In this guidance, the term "incentive compensation" refers to that portion of an employee's current or potential compensation that is tied to achievement of one or more specific metrics (*e.g.,* a level of sales, revenue, or income). Incentive compensation does not include compensation that is awarded solely for, and the payment of which is solely tied to, continued employment (*e.g.,* salary). In addition, the term does not include compensation arrangements that are determined based solely on the employee's level of compensation and does not vary based on one or more performance metrics (*e.g.,* a 401(k) plan under which the organization contributes a set percentage of an employee's salary).

for all executive and non-executive employees who, either individually or as part of a group, have the ability to expose the organization to material amounts of risk, as well as to regularly review the risk-management, control, and corporate governance processes related to these arrangements. Banking organizations should immediately address any identified deficiencies in these arrangements or processes that are inconsistent with safety and soundness. Banking organizations are responsible for ensuring that their incentive compensation arrangements are consistent with the principles described in this guidance and that they do not encourage employees to expose the organization to imprudent risks that may pose a threat to the safety and soundness of the organization.

The Agencies recognize that incentive compensation arrangements often seek to serve several important and worthy objectives. For example, incentive compensation arrangements may be used to help attract skilled staff, induce better organization-wide and employee performance, promote employee retention, provide retirement security to employees, or allow compensation expenses to vary with revenue on an organization-wide basis. Moreover, the analysis and methods for ensuring that incentive compensation arrangements take appropriate account of risk should be tailored to the size, complexity, business strategy, and risk tolerance of each organization. The resources required will depend upon the complexity of the firm and its use of incentive compensation arrangements. For some, the task of designing and implementing compensation arrangements that properly offer incentives for executive and non-executive employees to pursue the organization's long-term well-being and that do not encourage imprudent risk-taking is a complex task that will require the commitment of adequate resources.

While issues related to designing and implementing incentive compensation arrangements are complex, the Agencies are committed to ensuring that banking organizations move forward in incorporating the principles described in this guidance into their incentive compensation practices.[5]

As discussed further below, because of the size and complexity of their operations, LBOs[6] should have and adhere to systematic and formalized policies, procedures, and processes. These are considered important in ensuring that incentive compensation arrangements for all covered employees are identified and reviewed by appropriate levels of management (including the board of directors where appropriate and control units), and that they appropriately balance risks and rewards. In several places, this guidance specifically highlights the types of policies, procedures, and systems that LBOs should have and maintain, but that generally are not expected of smaller, less complex organizations. LBOs warrant the most intensive supervisory attention because they are significant users of incentive compensation arrangements and because flawed approaches at these organizations are more likely to have adverse effects on the broader financial system. The Agencies will work with LBOs as necessary through the supervisory process to ensure that they promptly correct any deficiencies that may be inconsistent with the safety and soundness of the organization.

The policies, procedures, and systems of smaller banking organizations that use incentive compensation arrangements[7] are expected to be less extensive, formalized, and detailed than those of LBOs. Supervisory reviews of incentive compensation arrangements at smaller, less-complex banking organizations will be conducted by the Agencies as part of the evaluation of those organizations' risk-management, internal controls, and corporate governance during the regular, risk-focused examination process. These reviews will be tailored to reflect the scope and complexity of an organization's activities, as well as the prevalence and scope of its incentive compensation arrangements. Little, if any, additional examination work is expected for smaller banking organizations that do not use, to a significant extent, incentive compensation arrangements.[8]

For all banking organizations, supervisory findings related to incentive compensation will be communicated to the organization and included in the relevant report of examination or inspection. In addition, these findings will be incorporated, as appropriate, into the organization's rating component(s) and subcomponent(s) relating to risk-management, internal controls, and corporate governance under the relevant supervisory rating system, as well as the organization's overall supervisory rating.

An organization's appropriate Federal supervisor may take enforcement action against a banking organization if its incentive compensation arrangements or related risk-management, control, or governance processes pose a risk to the safety and soundness of the organization, particularly when the organization is not taking prompt and effective measures to correct the deficiencies. For example, the appropriate Federal supervisor may take an enforcement action if material deficiencies are found to exist in the organization's incentive compensation arrangements or related risk-management, control, or governance processes, or the organization fails to promptly develop, submit, or adhere to an effective plan designed to ensure that its incentive compensation arrangements do not encourage imprudent risk-taking and are consistent with principles of safety and soundness. As provided under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), an enforcement action may, among other things, require an organization to take affirmative action, such as developing a corrective action plan that is acceptable to the appropriate Federal supervisor to rectify safety-and-soundness deficiencies in its incentive compensation arrangements or related processes. Where warranted, the appropriate Federal supervisor may require the organization to take additional affirmative action to correct or remedy deficiencies related to the

[5] In December 2009 the Federal Reserve, working with the other Agencies, initiated a special horizontal review of incentive compensation arrangements and related risk-management, control, and corporate governance practices of large banking organizations (LBOs). This initiative was designed to spur and monitor the industry's progress towards the implementation of safe and sound incentive compensation arrangements, identify emerging best practices, and advance the state of practice more generally in the industry.

[6] For supervisory purposes, the Agencies segment organizations they supervise into different supervisory portfolios based on, among other things, size, complexity, and risk profile. For purposes of the final guidance, LBOs include, in the case of banking organizations supervised by (i) the Federal Reserve, large, complex banking organizations as identified by the Federal Reserve for supervisory purposes; (ii) the OCC, the largest and most complex national banks as defined in the Large Bank Supervision booklet of the Comptroller's Handbook; (iii) the FDIC, large, complex insured depository institutions (IDIs); and (iv) the OTS, the largest and most complex savings associations and savings and loan holding companies.

[7] This guidance does not apply to banking organizations that do not use incentive compensation.

[8] To facilitate these reviews, where appropriate, a smaller banking organization should review its compensation arrangements to determine whether it uses incentive compensation arrangements to a significant extent in its business operations. A smaller banking organization will not be considered a significant user of incentive compensation arrangements simply because the organization has a firm-wide profit-sharing or bonus plan that is based on the bank's profitability, even if the plan covers all or most of the organization's employees.

organization's incentive compensation practices.

Effective and balanced incentive compensation practices are likely to evolve significantly in the coming years, spurred by the efforts of banking organizations, supervisors, and other stakeholders. The Agencies will review and update this guidance as appropriate to incorporate best practices that emerge from these efforts.

II. Scope of Application

The incentive compensation arrangements and related policies and procedures of banking organizations should be consistent with principles of safety and soundness.[9] Incentive compensation arrangements for executive officers as well as for non-executive personnel who have the ability to expose a banking organization to material amounts of risk may, if not properly structured, pose a threat to the organization's safety and soundness. Accordingly, this guidance applies to incentive compensation arrangements for:

- Senior executives and others who are responsible for oversight of the organization's firm-wide activities or material business lines;[10]
- Individual employees, including non-executive employees, whose activities may expose the organization to material amounts of risk (*e.g.,* traders with large position limits relative to the organization's overall risk tolerance); and
- Groups of employees who are subject to the same or similar incentive compensation arrangements and who, in the aggregate, may expose the organization to material amounts of risk, even if no individual employee is likely to expose the organization to material risk (*e.g.,* loan officers who, as a group, originate loans that account for a material amount of the organization's credit risk).

For ease of reference, these executive and non-executive employees are collectively referred to hereafter as "covered employees" or "employees." Depending on the facts and circumstances of the individual organization, the types of employees or categories of employees that are outside the scope of this guidance because they do not have the ability to expose the organization to material risks would likely include, for example, tellers, bookkeepers, couriers, or data processing personnel.

In determining whether an employee, or group of employees, may expose a banking organization to material risk, the organization should consider the full range of inherent risks arising from, or generated by, the employee's activities, even if the organization uses risk-management processes or controls to limit the risks such activities ultimately may pose to the organization. Moreover, risks should be considered to be material for purposes of this guidance if they are material to the organization, or are material to a business line or operating unit that is itself material to the organization.[11] For purposes of illustration, assume that a banking organization has a structured-finance unit that is material to the organization. A group of employees within that unit who originate structured-finance transactions that may expose the unit to material risks should be considered "covered employees" for purposes of this guidance even if those transactions must be approved by an independent risk function prior to consummation, or the organization uses other processes or methods to limit the risk that such transactions may present to the organization.

Strong and effective risk-management and internal control functions are critical to the safety and soundness of banking organizations. However, irrespective of the quality of these functions, poorly designed or managed incentive compensation arrangements can themselves be a source of risk to a banking organization. For example, incentive compensation arrangements that provide employees strong incentives to increase the organization's short-term revenues or profits, without regard to the short- or long-term risk associated with such business, can place substantial strain on the risk-management and internal control functions of even well-managed organizations.

Moreover, poorly balanced incentive compensation arrangements can encourage employees to take affirmative actions to weaken or circumvent the organization's risk-management or internal control functions, such as by providing inaccurate or incomplete information to these functions, to boost the employee's personal compensation. Accordingly, sound compensation practices are an integral part of strong risk-management and internal control functions. A key goal of this guidance is to encourage banking organizations to incorporate the risks related to incentive compensation into their broader risk-management framework. Risk-management procedures and risk controls that ordinarily limit risk-taking do not obviate the need for incentive compensation arrangements to properly balance risk-taking incentives.

III. Principles of a Sound Incentive Compensation System

Principle 1: Balanced Risk-Taking Incentives

Incentive compensation arrangements should balance risk and financial results in a manner that does not encourage employees to expose their organizations to imprudent risks.

Incentive compensation arrangements typically attempt to encourage actions that result in greater revenue or profit for the organization. However, short-run revenue or profit can often diverge sharply from actual long-run profit because risk outcomes may become clear only over time. Activities that carry higher risk typically yield higher short-term revenue, and an employee who is given incentives to increase short-term revenue or profit, without regard to risk, will naturally be attracted to opportunities to expose the organization to more risk.

An incentive compensation arrangement is balanced when the amounts paid to an employee appropriately take into account the risks (including compliance risks), as well as the financial benefits, from the employee's activities and the impact of those activities on the organization's safety and soundness. As an example, under a balanced incentive compensation arrangement, two employees who generate the same amount of short-term revenue or profit for an organization should not receive the same amount of incentive compensation if the risks taken by the employees in generating that revenue or profit differ materially. The employee whose activities create materially larger risks for the organization should receive

[9] In the case of the U.S. operations of FBOs, the organization's policies, including management, review, and approval requirements for its U.S. operations, should be coordinated with the FBO's group-wide policies developed in accordance with the rules of the FBO's home country supervisor. The policies of the FBO's U.S. operations should also be consistent with the FBO's overall corporate and management structure, as well as its framework for risk-management and internal controls. In addition, the policies for the U.S. operations of FBOs should be consistent with this guidance.

[10] Senior executives include, at a minimum, "executive officers" within the meaning of the Federal Reserve's Regulation O (*see* 12 CFR 215.2(e)(1)) and, for publicly traded companies, "named officers" within the meaning of the Securities and Exchange Commission's rules on disclosure of executive compensation (*see* 17 CFR 229.402(a)(3)). Savings associations should also refer to OTS's rule on loans by saving associations to their executive officers, directors, and principal shareholders. (12 CFR 563.43).

[11] Thus, risks may be material to an organization even if they are not large enough to themselves threaten the solvency of the organization.

less than the other employee, all else being equal.

The performance measures used in an incentive compensation arrangement have an important effect on the incentives provided employees and, thus, the potential for the arrangement to encourage imprudent risk-taking. For example, if an employee's incentive compensation payments are closely tied to short-term revenue or profit of business generated by the employee, without any adjustments for the risks associated with the business generated, the potential for the arrangement to encourage imprudent risk-taking may be quite strong. Similarly, traders who work with positions that close at year-end could have an incentive to take large risks toward the end of a year if there is no mechanism for factoring how such positions perform over a longer period of time. The same result could ensue if the performance measures themselves lack integrity or can be manipulated inappropriately by the employees receiving incentive compensation.

On the other hand, if an employee's incentive compensation payments are determined based on performance measures that are only distantly linked to the employee's activities (*e.g.,* for most employees, organization-wide profit), the potential for the arrangement to encourage the employee to take imprudent risks on behalf of the organization may be weak. For this reason, plans that provide for awards based solely on overall organization-wide performance are unlikely to provide employees, other than senior executives and individuals who have the ability to materially affect the organization's overall risk profile, with unbalanced risk-taking incentives.

Incentive compensation arrangements should not only be balanced in design, they also should be implemented so that actual payments vary based on risks or risk outcomes. If, for example, employees are paid substantially all of their potential incentive compensation even when risk or risk outcomes are materially worse than expected, employees have less incentive to avoid activities with substantial risk.

• Banking organizations should consider the full range of risks associated with an employee's activities, as well as the time horizon over which those risks may be realized, in assessing whether incentive compensation arrangements are balanced.

The activities of employees may create a wide range of risks for a banking organization, such as credit, market, liquidity, operational, legal, compliance, and reputational risks, as well as other risks to the viability or operation of the organization. Some of these risks may be realized in the short term, while others may become apparent only over the long term. For example, future revenues that are booked as current income may not materialize, and short-term profit-and-loss measures may not appropriately reflect differences in the risks associated with the revenue derived from different activities (*e.g.,* the higher credit or compliance risk associated with subprime loans versus prime loans).[12] In addition, some risks (or combinations of risky strategies and positions) may have a low probability of being realized, but would have highly adverse effects on the organization if they were to be realized ("bad tail risks"). While shareholders may have less incentive to guard against bad tail risks because of the infrequency of their realization and the existence of the Federal safety net, these risks warrant special attention for safety-and-soundness reasons given the threat they pose to the organization's solvency and the Federal safety net.

Banking organizations should consider the full range of current and potential risks associated with the activities of covered employees, including the cost and amount of capital and liquidity needed to support those risks, in developing balanced incentive compensation arrangements. Reliable quantitative measures of risk and risk outcomes ("quantitative measures"), where available, may be particularly useful in developing balanced compensation arrangements and in assessing the extent to which arrangements are properly balanced. However, reliable quantitative measures may not be available for all types of risk or for all activities, and their utility for use in compensation arrangements varies across business lines and employees. The absence of reliable quantitative measures for certain types of risks or outcomes does not mean that banking organizations should ignore such risks or outcomes for purposes of assessing whether an incentive compensation arrangement achieves balance. For example, while reliable quantitative measures may not exist for many bad-tail risks, it is important that such risks be considered given their potential effect on safety and soundness. As in other risk-management areas, banking organizations should rely on informed judgments, supported by available data, to estimate risks and risk outcomes in the absence of reliable quantitative risk measures.

Large banking organizations. In designing and modifying incentive compensation arrangements, LBOs should assess in advance of implementation whether such arrangements are likely to provide balanced risk-taking incentives. Simulation analysis of incentive compensation arrangements is one way of doing so. Such analysis uses forward-looking projections of incentive compensation awards and payments based on a range of performance levels, risk outcomes, and levels of risks taken. This type of analysis, or other analysis that results in assessments of likely effectiveness, can help an LBO assess whether incentive compensation awards and payments to an employee are likely to be reduced appropriately as the risks to the organization from the employee's activities increase.

• An unbalanced arrangement can be moved toward balance by adding or modifying features that cause the amounts ultimately received by employees to appropriately reflect risk and risk outcomes.

If an incentive compensation arrangement may encourage employees to expose their banking organization to imprudent risks, the organization should modify the arrangement as needed to ensure that it is consistent with safety and soundness. Four methods are often used to make compensation more sensitive to risk. These methods are:

○ *Risk Adjustment of Awards:* The amount of an incentive compensation award for an employee is adjusted based on measures that take into account the risk the employee's activities may pose to the organization. Such measures may be quantitative, or the size of a risk adjustment may be set judgmentally, subject to appropriate oversight.

○ *Deferral of Payment:* The actual payout of an award to an employee is delayed significantly beyond the end of the performance period, and the amounts paid are adjusted for actual losses or other aspects of performance that are realized or become better known only during the deferral period.[13] Deferred payouts may be

[12] Importantly, the time horizon over which a risk outcome may be realized is not necessarily the same as the stated maturity of an exposure. For example, the ongoing reinvestment of funds by a cash management unit in commercial paper with a one-day maturity not only exposes the organization to one-day credit risk, but also exposes the organization to liquidity risk that may be realized only infrequently.

[13] The deferral-of-payment method is sometimes referred to in the industry as a "clawback." The term "clawback" also may refer specifically to an arrangement under which an employee must return incentive compensation payments previously received by the employee (and not just deferred) if certain risk outcomes occur. Section 304 of the

altered according to risk outcomes either formulaically or judgmentally, subject to appropriate oversight. To be most effective, the deferral period should be sufficiently long to allow for the realization of a substantial portion of the risks from employee activities, and the measures of loss should be clearly explained to employees and closely tied to their activities during the relevant performance period.

○ *Longer Performance Periods:* The time period covered by the performance measures used in determining an employee's award is extended (for example, from one year to two or more years). Longer performance periods and deferral of payment are related in that both methods allow awards or payments to be made after some or all risk outcomes are realized or better known.

○ *Reduced Sensitivity to Short-Term Performance:* The banking organization reduces the rate at which awards increase as an employee achieves higher levels of the relevant performance measure(s). Rather than offsetting risk-taking incentives associated with the use of short-term performance measures, this method reduces the magnitude of such incentives. This method also can include improving the quality and reliability of performance measures in taking into account both short-term and long-term risks, for example improving the reliability and accuracy of estimates of revenues and long-term profits upon which performance measures depend.[14]

These methods for achieving balance are not exclusive, and additional methods or variations may exist or be developed. Moreover, each method has its own advantages and disadvantages. For example, where reliable risk measures exist, risk adjustment of awards may be more effective than deferral of payment in reducing incentives for imprudent risk-taking. This is because risk adjustment potentially can take account of the full range and time horizon of risks, rather than just those risk outcomes that occur or become more evident during the deferral period. On the other hand, deferral of payment may be more effective than risk adjustment in mitigating incentives to take hard-to-measure risks (such as the risks of new activities or products, or certain risks such as reputational or operational risk that may be difficult to measure with respect to particular activities), especially if such risks are likely to be realized during the deferral period. Accordingly, in some cases two or more methods may be needed in combination for an incentive compensation arrangement to be balanced.

The greater the potential incentives an arrangement creates for an employee to increase the risks associated with the employee's activities, the stronger the effect should be of the methods applied to achieve balance. Thus, for example, risk adjustments used to counteract a materially unbalanced compensation arrangement should have a similarly material impact on the incentive compensation paid under the arrangement. Further, improvements in the quality and reliability of performance measures themselves, for example improving the reliability and accuracy of estimates of revenues and profits upon which performance measures depend, can significantly improve the degree of balance in risk-taking incentives.

Where judgment plays a significant role in the design or operation of an incentive compensation arrangement, strong policies and procedures, internal controls, and ex post monitoring of incentive compensation payments relative to actual risk outcomes are particularly important to help ensure that the arrangements as implemented are balanced and do not encourage imprudent risk-taking. For example, if a banking organization relies to a significant degree on the judgment of one or more managers to ensure that the incentive compensation awards to employees are appropriately risk-adjusted, the organization should have policies and procedures that describe how managers are expected to exercise that judgment to achieve balance and that provide for the manager(s) to receive appropriate available information about the employee's risk-taking activities to make informed judgments.

Large banking organizations. Methods and practices for making compensation sensitive to risk are likely to evolve rapidly during the next few years, driven in part by the efforts of supervisors and other stakeholders. LBOs should actively monitor developments in the field and should incorporate into their incentive compensation systems new or emerging methods or practices that are likely to improve the organization's long-term financial well-being and safety and soundness.

• The manner in which a banking organization seeks to achieve balanced incentive compensation arrangements should be tailored to account for the differences between employees—including the substantial differences between senior executives and other employees—as well as between banking organizations.

Activities and risks may vary significantly both across banking organizations and across employees within a particular banking organization. For example, activities, risks, and incentive compensation practices may differ materially among banking organizations based on, among other things, the scope or complexity of activities conducted and the business strategies pursued by the organizations. These differences mean that methods for achieving balanced compensation arrangements at one organization may not be effective in restraining incentives to engage in imprudent risk-taking at another organization. Each organization is responsible for ensuring that its incentive compensation arrangements are consistent with the safety and soundness of the organization.

Moreover, the risks associated with the activities of one group of non-executive employees (*e.g.,* loan originators) within a banking organization may differ significantly from those of another group of non-executive employees (*e.g.,* spot foreign exchange traders) within the organization. In addition, reliable quantitative measures of risk and risk outcomes are unlikely to be available for a banking organization as a whole, particularly a large, complex organization. This factor can make it difficult for banking organizations to achieve balanced compensation arrangements for senior executives who have responsibility for managing risks on an organization-wide basis solely through use of the risk-adjustment-of-award method.

Furthermore, the payment of deferred incentive compensation in equity (such as restricted stock of the organization) or equity-based instruments (such as options to acquire the organization's stock) may be helpful in restraining the risk-taking incentives of senior executives and other covered employees whose activities may have a material effect on the overall financial performance of the organization. However, equity-related deferred compensation may not be as effective in restraining the incentives of lower-level covered employees (particularly at large organizations) to take risks because such

Sarbanes-Oxley Act of 2002 (15 U.S.C. 7243), which applies to chief executive officers and chief financial officers of public banking organizations, is an example of this more specific type of "clawback" requirement.

[14] Performance targets may have a material effect on risk-taking incentives. Such targets may offer employees greater rewards for increments of performance that are above the target or may provide that awards will be granted only if a target is met or exceeded. Employees may be particularly motivated to take imprudent risk in order to reach performance targets that are aggressive, but potentially achievable.

employees are unlikely to believe that their actions will materially affect the organization's stock price.

Banking organizations should take account of these differences when constructing balanced compensation arrangements. For most banking organizations, the use of a single, formulaic approach to making employee incentive compensation arrangements appropriately risk-sensitive is likely to result in arrangements that are unbalanced at least with respect to some employees.[15]

Large banking organizations. Incentive compensation arrangements for senior executives at LBOs are likely to be better balanced if they involve deferral of a substantial portion of the executives' incentive compensation over a multi-year period in a way that reduces the amount received in the event of poor performance, substantial use of multi-year performance periods, or both. Similarly, the compensation arrangements for senior executives at LBOs are likely to be better balanced if a significant portion of the incentive compensation of these executives is paid in the form of equity-based instruments that vest over multiple years, with the number of instruments ultimately received dependent on the performance of the organization during the deferral period.

The portion of the incentive compensation of other covered employees that is deferred or paid in the form of equity-based instruments should appropriately take into account the level, nature, and duration of the risks that the employees' activities create for the organization and the extent to which those activities may materially affect the overall performance of the organization and its stock price. Deferral of a substantial portion of an employee's incentive compensation may not be workable for employees at lower pay scales because of their more limited financial resources. This may require increased reliance on other measures in the incentive compensation arrangements for these employees to achieve balance.

• Banking organizations should carefully consider the potential for "golden parachutes" and the vesting arrangements for deferred compensation to affect the risk-taking behavior of employees while at the organizations.

Arrangements that provide for an employee (typically a senior executive), upon departure from the organization or a change in control of the organization, to receive large additional payments or the accelerated payment of deferred amounts without regard to risk or risk outcomes can provide the employee significant incentives to expose the organization to undue risk. For example, an arrangement that provides an employee with a guaranteed payout upon departure from an organization, regardless of performance, may neutralize the effect of any balancing features included in the arrangement to help prevent imprudent risk-taking.

Banking organizations should carefully review any such existing or proposed arrangements (sometimes called "golden parachutes") and the potential impact of such arrangements on the organization's safety and soundness. In appropriate circumstances an organization should consider including balancing features—such as risk adjustment or deferral requirements that extend past the employee's departure—in the arrangements to mitigate the potential for the arrangements to encourage imprudent risk-taking. In all cases, a banking organization should ensure that the structure and terms of any golden parachute arrangement entered into by the organization do not encourage imprudent risk-taking in light of the other features of the employee's incentive compensation arrangements.

Large banking organizations. Provisions that require a departing employee to forfeit deferred incentive compensation payments may weaken the effectiveness of the deferral arrangement if the departing employee is able to negotiate a "golden handshake" arrangement with the new employer.[16] This weakening effect can be particularly significant for senior executives or other skilled employees at LBOs whose services are in high demand within the market.

Golden handshake arrangements present special issues for LBOs and supervisors. For example, while a banking organization could adjust its deferral arrangements so that departing employees will continue to receive any accrued deferred compensation after departure (subject to any clawback or malus[17]), these changes could reduce the employee's incentive to remain at the organization and, thus, weaken an organization's ability to retain qualified talent, which is an important goal of compensation, and create conflicts of interest. Moreover, actions of the hiring organization (which may or may not be a supervised banking organization) ultimately may defeat these or other risk-balancing aspects of a banking organization's deferral arrangements. LBOs should monitor whether golden handshake arrangements are materially weakening the organization's efforts to constrain the risk-taking incentives of employees. The Agencies will continue to work with banking organizations and others to develop appropriate methods for addressing any effect that such arrangements may have on the safety and soundness of banking organizations.

• Banking organizations should effectively communicate to employees the ways in which incentive compensation awards and payments will be reduced as risks increase.

In order for the risk-sensitive provisions of incentive compensation arrangements to affect employee risk-taking behavior, the organization's employees need to understand that the amount of incentive compensation that they may receive will vary based on the risk associated with their activities. Accordingly, banking organizations should ensure that employees covered by an incentive compensation arrangement are informed about the key ways in which risks are taken into account in determining the amount of incentive compensation paid. Where feasible, an organization's communications with employees should include examples of how incentive compensation payments may be adjusted to reflect projected or actual risk outcomes. An organization's communications should be tailored appropriately to reflect the sophistication of the relevant audience(s).

Principle 2: Compatibility With Effective Controls and Risk-management

A banking organization's risk-management processes and internal controls should reinforce and support the development and maintenance of balanced incentive compensation arrangements.

[15] For example, spreading payouts of incentive compensation awards over a standard three-year period may not appropriately reflect the differences in the type and time horizon of risk associated with the activities of different groups of employees, and may not be sufficient by itself to balance the compensation arrangements of employees who may expose the organization to substantial longer-term risks.

[16] Golden handshakes are arrangements that compensate an employee for some or all of the estimated, non-adjusted value of deferred incentive compensation that would have been forfeited upon departure from the employee's previous employment.

[17] A malus arrangement permits the employer to prevent vesting of all or part of the amount of a deferred remuneration award. Malus provisions are invoked when risk outcomes are worse than expected or when the information upon which the award was based turns out to have been incorrect. Loss of unvested compensation due to the employee voluntarily leaving the firm is not an example of malus as the term is used in this guidance.

In order to increase their own compensation, employees may seek to evade the processes established by a banking organization to achieve balanced compensation arrangements. Similarly, an employee covered by an incentive compensation arrangement may seek to influence, in ways designed to increase the employee's pay, the risk measures or other information or judgments that are used to make the employee's pay sensitive to risk.

Such actions may significantly weaken the effectiveness of an organization's incentive compensation arrangements in restricting imprudent risk-taking. These actions can have a particularly damaging effect on the safety and soundness of the organization if they result in the weakening of risk measures, information, or judgments that the organization uses for other risk-management, internal control, or financial purposes. In such cases, the employee's actions may weaken not only the balance of the organization's incentive compensation arrangements, but also the risk-management, internal controls, and other functions that are supposed to act as a separate check on risk-taking. For this reason, traditional risk-management controls alone do not eliminate the need to identify employees who may expose the organization to material risk, nor do they obviate the need for the incentive compensation arrangements for these employees to be balanced. Rather, a banking organization's risk-management processes and internal controls should reinforce and support the development and maintenance of balanced incentive compensation arrangements.

• Banking organizations should have appropriate controls to ensure that their processes for achieving balanced compensation arrangements are followed and to maintain the integrity of their risk-management and other functions.

To help prevent damage from occurring, a banking organization should have strong controls governing its process for designing, implementing, and monitoring incentive compensation arrangements. Banking organizations should create and maintain sufficient documentation to permit an audit of the effectiveness of the organization's processes for establishing, modifying, and monitoring incentive compensation arrangements. Smaller banking organizations should incorporate reviews of these processes into their overall framework for compliance monitoring (including internal audit).

Large banking organizations. LBOs should have and maintain policies and procedures that (i) identify and describe the role(s) of the personnel, business units, and control units authorized to be involved in the design, implementation, and monitoring of incentive compensation arrangements; (ii) identify the source of significant risk-related inputs into these processes and establish appropriate controls governing the development and approval of these inputs to help ensure their integrity; and (iii) identify the individual(s) and control unit(s) whose approval is necessary for the establishment of new incentive compensation arrangements or modification of existing arrangements.

An LBO also should conduct regular internal reviews to ensure that its processes for achieving and maintaining balanced incentive compensation arrangements are consistently followed. Such reviews should be conducted by audit, compliance, or other personnel in a manner consistent with the organization's overall framework for compliance monitoring. An LBO's internal audit department also should separately conduct regular audits of the organization's compliance with its established policies and controls relating to incentive compensation arrangements. The results should be reported to appropriate levels of management and, where appropriate, the organization's board of directors.

• Appropriate personnel, including risk-management personnel, should have input into the organization's processes for designing incentive compensation arrangements and assessing their effectiveness in restraining imprudent risk-taking.

Developing incentive compensation arrangements that provide balanced risk-taking incentives and monitoring arrangements to ensure they achieve balance over time requires an understanding of the risks (including compliance risks) and potential risk outcomes associated with the activities of the relevant employees. Accordingly, banking organizations should have policies and procedures that ensure that risk-management personnel have an appropriate role in the organization's processes for designing incentive compensation arrangements and for assessing their effectiveness in restraining imprudent risk-taking.[18] Ways that risk managers might assist in achieving balanced compensation arrangements include, but are not limited to, (i) reviewing the types of risks associated with the activities of covered employees; (ii) approving the risk measures used in risk adjustments and performance measures, as well as measures of risk outcomes used in deferred-payout arrangements; and (iii) analyzing risk-taking and risk outcomes relative to incentive compensation payments.

Other functions within an organization, such as its control, human resources, or finance functions, also play an important role in helping ensure that incentive compensation arrangements are balanced. For example, these functions may contribute to the design and review of performance measures used in compensation arrangements or may supply data used as part of these measures.

• Compensation for employees in risk-management and control functions should be sufficient to attract and retain qualified personnel and should avoid conflicts of interest.

The risk-management and control personnel involved in the design, oversight, and operation of incentive compensation arrangements should have appropriate skills and experience needed to effectively fulfill their roles. These skills and experiences should be sufficient to equip the personnel to remain effective in the face of challenges by covered employees seeking to increase their incentive compensation in ways that are inconsistent with sound risk-management or internal controls. The compensation arrangements for employees in risk-management and control functions thus should be sufficient to attract and retain qualified personnel with experience and expertise in these fields that is appropriate in light of the size, activities, and complexity of the organization.

In addition, to help preserve the independence of their perspectives, the incentive compensation received by risk-management and control personnel staff should not be based substantially on the financial performance of the business units that they review. Rather, the performance measures used in the incentive compensation arrangements for these personnel should be based primarily on the achievement of the objectives of their functions (*e.g.,* adherence to internal controls).

• Banking organizations should monitor the performance of their incentive compensation arrangements and should revise the arrangements as needed if payments do not appropriately reflect risk.

Banking organizations should monitor incentive compensation awards and payments, risks taken, and actual risk outcomes to determine whether

[18] Involvement of risk-management personnel in the design and monitoring of these arrangements also should help ensure that the organization's risk-management functions can properly understand and address the full range of risks facing the organization.

incentive compensation payments to employees are reduced to reflect adverse risk outcomes or high levels of risk taken. Results should be reported to appropriate levels of management, including the board of directors where warranted and consistent with Principle 3 below. The monitoring methods and processes used by a banking organization should be commensurate with the size and complexity of the organization, as well as its use of incentive compensation. Thus, for example, a small, noncomplex organization that uses incentive compensation only to a limited extent may find that it can appropriately monitor its arrangements through normal management processes.

A banking organization should take the results of such monitoring into account in establishing or modifying incentive compensation arrangements and in overseeing associated controls. If, over time, incentive compensation paid by a banking organization does not appropriately reflect risk outcomes, the organization should review and revise its incentive compensation arrangements and related controls to ensure that the arrangements, as designed and implemented, are balanced and do not provide employees incentives to take imprudent risks.

Principle 3: Strong Corporate Governance

Banking organizations should have strong and effective corporate governance to help ensure sound compensation practices, including active and effective oversight by the board of directors.

Given the key role of senior executives in managing the overall risk-taking activities of an organization, the board of directors of a banking organization should directly approve the incentive compensation arrangements for senior executives.[19] The board also should approve and document any material exceptions or adjustments to the incentive compensation arrangements established for senior executives and should carefully consider and monitor the effects of any approved exceptions or adjustments on the balance of the arrangement, the risk-taking incentives of the senior executive, and the safety and soundness of the organization.

The board of directors of an organization also is ultimately responsible for ensuring that the organization's incentive compensation arrangements for all covered employees are appropriately balanced and do not jeopardize the safety and soundness of the organization. The involvement of the board of directors in oversight of the organization's overall incentive compensation program should be scaled appropriately to the scope and prevalence of the organization's incentive compensation arrangements.

Large banking organizations and organizations that are significant users of incentive compensation. The board of directors of an LBO or other banking organization that uses incentive compensation to a significant extent should actively oversee the development and operation of the organization's incentive compensation policies, systems, and related control processes. The board of directors of such an organization should review and approve the overall goals and purposes of the organization's incentive compensation system. In addition, the board should provide clear direction to management to ensure that the goals and policies it establishes are carried out in a manner that achieves balance and is consistent with safety and soundness.

The board of directors of such an organization also should ensure that steps are taken so that the incentive compensation system—including performance measures and targets—is designed and operated in a manner that will achieve balance.

- The board of directors should monitor the performance, and regularly review the design and function, of incentive compensation arrangements.

To allow for informed reviews, the board should receive data and analysis from management or other sources that are sufficient to allow the board to assess whether the overall design and performance of the organization's incentive compensation arrangements are consistent with the organization's safety and soundness. These reviews and reports should be appropriately scoped to reflect the size and complexity of the banking organization's activities and the prevalence and scope of its incentive compensation arrangements.

The board of directors of a banking organization should closely monitor incentive compensation payments to senior executives and the sensitivity of those payments to risk outcomes. In addition, if the compensation arrangement for a senior executive includes a clawback provision, then the review should include sufficient information to determine if the provision has been triggered and executed as planned.

The board of directors of a banking organization should seek to stay abreast of significant emerging changes in compensation plan mechanisms and incentives in the marketplace as well as developments in academic research and regulatory advice regarding incentive compensation policies. However, the board should recognize that organizations, activities, and practices within the industry are not identical. Incentive compensation arrangements at one organization may not be suitable for use at another organization because of differences in the risks, controls, structure, and management among organizations. The board of directors of each organization is responsible for ensuring that the incentive compensation arrangements for its organization do not encourage employees to take risks that are beyond the organization's ability to manage effectively, regardless of the practices employed by other organizations.

Large banking organizations and organizations that are significant users of incentive compensation. The board of an LBO or other organization that uses incentive compensation to a significant extent should receive and review, on an annual or more frequent basis, an assessment by management, with appropriate input from risk-management personnel, of the effectiveness of the design and operation of the organization's incentive compensation system in providing risk-taking incentives that are consistent with the organization's safety and soundness. These reports should include an evaluation of whether or how incentive compensation practices may increase the potential for imprudent risk-taking.

The board of such an organization also should receive periodic reports that review incentive compensation awards and payments relative to risk outcomes on a backward-looking basis to determine whether the organization's incentive compensation arrangements may be promoting imprudent risk-taking. Boards of directors of these organizations also should consider periodically obtaining and reviewing simulation analysis of compensation on a forward-looking basis based on a range of performance levels, risk outcomes, and the amount of risks taken.

[19] As used in this guidance, the term "board of directors" is used to refer to the members of the board of directors who have primary responsibility for overseeing the incentive compensation system. Depending on the manner in which the board is organized, the term may refer to the entire board of directors, a compensation committee of the board, or another committee of the board that has primary responsibility for overseeing the incentive compensation system. In the case of FBOs, the term refers to the relevant oversight body for the firm's U.S. operations, consistent with the FBO's overall corporate and management structure.

• The organization, composition, and resources of the board of directors should permit effective oversight of incentive compensation.

The board of directors of a banking organization should have, or have access to, a level of expertise and experience in risk-management and compensation practices in the financial services industry that is appropriate for the nature, scope, and complexity of the organization's activities. This level of expertise may be present collectively among the members of the board, may come from formal training or from experience in addressing these issues, including as a director, or may be obtained through advice received from outside counsel, consultants, or other experts with expertise in incentive compensation and risk-management. The board of directors of an organization with less complex and extensive incentive compensation arrangements may not find it necessary or appropriate to require special board expertise or to retain and use outside experts in this area.

In selecting and using outside parties, the board of directors should give due attention to potential conflicts of interest arising from other dealings of the parties with the organization or for other reasons. The board also should exercise caution to avoid allowing outside parties to obtain undue levels of influence. While the retention and use of outside parties may be helpful, the board retains ultimate responsibility for ensuring that the organization's incentive compensation arrangements are consistent with safety and soundness.

Large banking organizations and organizations that are significant users of incentive compensation. If a separate compensation committee is not already in place or required by other authorities,[20] the board of directors of an LBO or other banking organization that uses incentive compensation to a significant extent should consider establishing such a committee—reporting to the full board—that has primary responsibility for overseeing the organization's incentive compensation systems. A compensation committee should be composed solely or predominantly of non-executive directors. If the board does not have such a compensation committee, the board should take other steps to ensure that non-executive directors of the board are actively involved in the oversight of incentive compensation systems. The compensation committee should work closely with any board-level risk and audit committees where the substance of their actions overlap.

• A banking organization's disclosure practices should support safe and sound incentive compensation arrangements.

If a banking organization's incentive compensation arrangements provide employees incentives to take risks that are beyond the tolerance of the organization's shareholders, these risks are likely to also present a risk to the safety and soundness of the organization.[21] To help promote safety and soundness, a banking organization should provide an appropriate amount of information concerning its incentive compensation arrangements for executive and non-executive employees and related risk-management, control, and governance processes to shareholders to allow them to monitor and, where appropriate, take actions to restrain the potential for such arrangements and processes to encourage employees to take imprudent risks. Such disclosures should include information relevant to employees other than senior executives. The scope and level of the information disclosed by the organization should be tailored to the nature and complexity of the organization and its incentive compensation arrangements.[22]

• Large banking organizations should follow a systematic approach to developing a compensation system that has balanced incentive compensation arrangements.

At banking organizations with large numbers of risk-taking employees engaged in diverse activities, an ad hoc approach to developing balanced arrangements is unlikely to be reliable. Thus, an LBO should use a systematic approach—supported by robust and formalized policies, procedures, and systems—to ensure that those arrangements are appropriately balanced and consistent with safety and soundness. Such an approach should provide for the organization effectively to:

○ Identify employees who are eligible to receive incentive compensation and whose activities may expose the organization to material risks. These employees should include (i) senior executives and others who are responsible for oversight of the organization's firm-wide activities or material business lines; (ii) individual employees, including non-executive employees, whose activities may expose the organization to material amounts of risk; and (iii) groups of employees who are subject to the same or similar incentive compensation arrangements and who, in the aggregate, may expose the organization to material amounts of risk;

○ Identify the types and time horizons of risks to the organization from the activities of these employees;

○ Assess the potential for the performance measures included in the incentive compensation arrangements for these employees to encourage the employees to take imprudent risks;

○ Include balancing elements, such as risk adjustments or deferral periods, within the incentive compensation arrangements for these employees that are reasonably designed to ensure that the arrangement will be balanced in light of the size, type, and time horizon of the inherent risks of the employees' activities;

○ Communicate to the employees the ways in which their incentive compensation awards or payments will be adjusted to reflect the risks of their activities to the organization; and

○ Monitor incentive compensation awards, payments, risks taken, and risk outcomes for these employees and modify the relevant arrangements if payments made are not appropriately sensitive to risk and risk outcomes.

III. Conclusion

Banking organizations are responsible for ensuring that their incentive compensation arrangements do not encourage imprudent risk-taking behavior and are consistent with the safety and soundness of the organization. The Agencies expect banking organizations to take prompt action to address deficiencies in their incentive compensation arrangements or related risk-management, control, and governance processes.

The Agencies intend to actively monitor the actions taken by banking organizations in this area and will promote further advances in designing and implementing balanced incentive compensation arrangements. Where appropriate, the Agencies will take supervisory or enforcement action to ensure that material deficiencies that pose a threat to the safety and soundness of the organization are promptly addressed. The Agencies also

[20] *See,* New York Stock Exchange Listed Company Manual Section 303A.05(a); Nasdaq Listing Rule 5605(d); Internal Revenue Code section 162(m) (26 U.S.C. 162(m)).

[21] On the other hand, as noted previously, compensation arrangements that are in the interests of the shareholders of a banking organization are not necessarily consistent with safety and soundness.

[22] A banking organization also should comply with the incentive compensation disclosure requirements of the Federal securities law and other laws as applicable. *See, e.g.,* Proxy Disclosure Enhancements, SEC Release Nos. 33–9089, 34–61175, 74 FR 68334 (Dec. 23, 2009) (to be codified at 17 CFR pts. 229 and 249).

will update this guidance as appropriate to incorporate best practices as they develop over time.

This concludes the text of the Guidance on Sound Incentive Compensation Policies.

Dated: June 17, 2010.

John C. Dugan,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, June 21, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

Dated: June 21, 2010.

Valerie J. Best,

Assistant Executive Secretary, Federal Deposit Insurance Corporation.

Dated: June 10, 2010.

By the Office of Thrift Supervision.

John E. Bowman,

Acting Director.

[FR Doc. 2010–15435 Filed 6–24–10; 8:45 am]

BILLING CODE 6210–01–P 4810–33–P 6714–01–P 6720–01–P

GENERAL SERVICES ADMINISTRATION

[Docket 2010–009; Sequence 3]

Federal Travel Regulation (FTR); Directions for Reporting Other Than Coach-Class Accommodations for Employees on Official Travel

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice of GSA Bulletin FTR 10–05.

SUMMARY: The General Services Administration (GSA), in conjunction with the Government Accountability Office (GAO) report, *Premium Class Travel: Internal Control Weaknesses Governmentwide Led to Improper and Abusive Use of Premium Class Travel* (GAO–07–1268), has issued GSA Bulletin FTR 10–05. This bulletin provides directions to Federal Agencies for reporting other than coach-class accommodations for employees on official travel. GSA Bulletin FTR 10–05 may be found at *http://www.gsa.gov/federaltravelregulation.*

DATES: The provisions in this Bulletin are effective June 9, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick O'Grady, Office of Governmentwide Policy (M), Office of Travel, Transportation, and Asset Management (MT), General Services Administration at (202) 208–4493 or via e-mail at *patrick.ogrady@gsa.gov.* Please cite GSA Bulletin FTR 10–05.

Dated: June 16, 2010.

Becky Rhodes,

Associate Administrator, Office of Travel, Transportation, and Asset Management.

[FR Doc. 2010–15433 Filed 6–24–10; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

American Indians Into Psychology; Notice of Competitive Grant Applications for American Indians Into Psychology Program

Announcement Type: New.

Funding Opportunity Number: HHS–IHS–2010–INPSY–0001.

CFDA Number: 93.970.

Key Dates

Application Deadline: July 23, 2010.

Review Date: July 29, 2010.

Earliest Anticipated Start Date: September 1, 2010.

I. Funding Opportunity Description

The Indian Health Service (IHS) is accepting competitive grant applications for the American Indians into Psychology Program. This program is authorized under the authority of "25 U.S.C. 1621p(a–d).", Indian Health Care Improvement Act, Public Law 94–437, as amended by Public Law 102–573 and Public Law 111–148.

Purpose

The purpose of the Indians into Psychology Program is to develop and maintain Indian psychology career recruitment programs as a means of encouraging Indians to enter the behavioral health field. This program is described at 93.970 in the Catalog of Federal Domestic Assistance. Costs will be determined in accordance with applicable Office of Management and Budget Circulars. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2010, a PHS-led activity for setting priority areas. This program announcement is related to the priority area of Educational and Community-based programs. Potential applicants may obtain a copy of Healthy People 2010, summary report in print, Stock No. 017–001–00547–9, or via CD–ROM, Stock No. 107–001–00549–5, through the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7945, (202) 512–1800. You may also access this information via the Internet at the following Web site: *http://www.health.gov/healthypeople.*

The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

II. Award Information

Type of Awards: Grant.

Estimated Funds Available: The total amount identified for Fiscal Year 2010 is $757,386. The award is for 12 months in duration and the average award is approximately $252,462. Awards under this announcement are subject to the availability of funds. In the absence of funding, the agency is under no obligation to make awards funded under this announcement.

Anticipated Number of Awards: An estimated two awards will be made under the program. If funding becomes available, additional awards may be made.

Project Period: 4 years.

Award Amount: $252,462, per year.

III. Eligibility Information

1. Eligible Applicants

Public and nonprofit private colleges and universities that offer a Ph.D. in clinical programs accredited by the American Psychological Association will be eligible to apply for a grant under this announcement. However, only one grant will be awarded and funded to a college or university per funding cycle.

2. Cost Sharing/Matching

This announcement does not require matching funds or cost sharing.

3. Other Requirements

Required Affiliations—The grant applicant must submit official documentation indicating a Tribe's cooperation with and support of the program within the schools on its reservation and its willingness to have a Tribal representative serving on the program advisory board. Documentation must be in the form prescribed by the Tribe's governing body, *i.e.,* letter of support or Tribal resolution. Documentation must be submitted from every Tribe involved in the grant program. If application budgets exceed

the stated dollar amount that is outlined within this announcement, it will not be considered for funding.

IV. Application and Submission Information

1. Obtaining Application Materials

Applicant package may be found in Grants.gov (*http://www.grants.gov*) or at *http://www.ihs.gov/NonMedicalPrograms/gogp/gogp_funding.asp.* Information regarding the electronic application process may be directed to Paul Gettys, at 301–443–2114 or *Paul.Gettys@ihs.gov.*

The entire application package is available at: *http://www.grants.gov/Apply*. Detailed application instructions for this announcement are downloadable on *http://www.Grants.gov.*

2. Content and Form of Application Submission

The application must include the project narrative as an attachment to the application package.

Mandatory documents for all applications include:

- Application Forms

SF–424.
SF–424A.
SF–424B.

- Budget Narrative.
- Project Narrative (must not exceed 10 pages).
- Tribal Resolution or Tribal Letter of Support.
- Biographical sketches for all Key Personnel.
- Disclosure of Lobbying Activities (SF–LLL) (if applicable).

Documentation of current Office of Management and Budget A–133 required Financial Audit, if applicable Acceptable forms of documentation include:

- E-mail confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
- Face sheets from audit reports. These can be found on the FAC Web site: *http://harvester.census.gov/fac/dissem/accessoptions.html?submit=Retrieve+Records*.

Public Policy Requirements

All Federal-wide public policies apply to IHS grants with the exception of the Discrimination policy.

Requirements for Project and Budget Narratives

A. *Project Narrative:* This narrative should be a separate Word document that is no longer than 15 pages (*see* page limitations for each Part noted below) with consecutively numbered pages. Be sure to place all responses and required information in the correct section or they will not be considered or scored. If the narrative exceeds the page limit, only the first 15 pages will be reviewed. There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

Part A: Program Information (6 Pages)

Section 1: Needs

a. Describe your legal status and organization.

b. State specific objectives of the project, and the extent to which they are measurable and quantifiable, significant to the needs of Indian people, logical, complete, and consistent with the purpose of Section 1621p of the Indian Health Care Improvement Act.

c. Describe briefly what the project intends to accomplish. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

d. Provide a project specific work plan (milestone chart) that lists each objective, the tasks to be conducted in order to reach the objective, and the time frame needed to accomplish each task. Time frames should be projected in a realistic manner to assure that the scope of work can be completed within each budget period. (A work plan format is provided.)

e. In the case of proposed projects for identification of Indians with a potential for education or training in the health professions, include a method for assessing the potential of interested Indians for undertaking necessary education or training in such health professions.

f. State clearly the criteria by which the project's progress will be evaluated and by which the success of the project will be determined.

g. Explain the methodology that will be used to determine if the needs, goals, and objectives identified and discussed in the application are being met and if the results and benefits identified are being achieved.

h. Identify who will perform the evaluation and when.

Part B: Program Planning and Evaluation (3 Pages)

Section 1: Program Plans

a. Provide an organizational chart and describe the administrative, managerial and organizational arrangements and the facilities and resources to be utilized to conduct the proposed project (include in appendix).

b. Provide the name and qualifications of the project director or other individuals responsible for the conduct of the project; the qualifications of the principal staff carrying out the project; and a description of the manner in which the applicant's staff is or will be organized and supervised to carry out the proposed project. Include biographical sketches of key personnel (or job descriptions if the position is vacant) (include in appendix).

c. Describe any prior experience in administering similar projects.

d. Discuss the commitment of the organization, i.e., although not required, the level of non-Federal support. List the intended financial participation, if any, of the applicant in the proposed project specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space, materials or facilities or other contributions.

e. Describe the ability to provide outreach and recruitment for health professions to Indian communities including elementary and secondary schools and community colleges located on Indian reservations which will be served by the program.

f. Describe the organization's plan to incorporate a program advisory board comprised of representatives from the Tribes and communities which will be served by the program.

g. Describe plans to the maximum extent feasible, employ qualified Indians in the program.

Section 2: Program Evaluation

a. Describe the current and proposed participation of Indians (if any) in your organization.

b. Identify the target Indian population to be served by your proposed project and the relationship of your organization to that population.

c. Describe the methodology to be used to access the target population.

d. Identify affiliation agreements with Tribal community colleges, the IHS, university affiliated programs, and other appropriate entities to enhance the education of Indian students.

e. Identify existing university tutoring, counseling and student support services.

Part C: Program Report (3 Pages)

a. Provide data and supporting documentation to substantiate need for recruitment.

b. Indicate the number of potential Indian students to be contacted and recruited as well as potential cost per student recruited. Those projects that

have the potential to serve a greater number of Indians will be given first consideration.

B. *Budget Narrative:* This narrative must describe the budget requested and match the scope of work described in the project narrative. The page limitation should not exceed three pages.

a. Clearly define the budget. Provide a justification and detailed breakdown of the funding by category for the first year of the project. Information on the project director and project staff should include salaries and percentage of time assigned to the grant. List equipment purchases necessary to conduct of the project.

b. The available funding level of $252,462 is inclusive of both direct and indirect costs or 8 percent of total direct costs. Because this project is for a training grant, the Department of Health and Human Services' policy limiting reimbursement of indirect costs to the lesser of the applicant's actual indirect costs or 8 percent of total direct costs (exclusive of tuition and related fees and expenditures for equipment) is applicable. This limitation applies to all institutions of higher education.

c. The applicant may include as a direct cost tuition and student support for students who have been selected to receive a scholarship through the American Indians into Psychology Program grant. Scholarship support consists of full tuition/fees and a monthly stipend for 12 months. The current stipend is to be $1,500.00 per month and adjusted annually at 2%.

d. Projects requiring a second and third year must include a program narrative and categorical budget and justification for each additional year of funding requested (this is not considered part of the 15-page narrative).

e. Provide budgetary information for summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions.

f. Provide budget information on stipends that will be provided to undergraduate and graduate students to pursue a career in clinical psychology. Stipends for individuals will not be funded during the first year of the project only if the grantee has not had an established American Indians into Psychology Program grant because the first year will involve recruiting individuals. Stipends must be included in the budget and narrative for the second through fourth years of the project.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by July 23, 2010 at 12 midnight Eastern Standard Time (EST). Any application received after the application deadline will not be accepted for processing, and will be returned to the applicant(s) without further consideration for funding.

If technical challenges arise and assistance is required with the electronic application process, contact Grants.gov Customer Support via e-mail to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Paul Gettys, Division of Grants Policy (DGP), *Paul.Gettys@ihs.gov* at (301) 443–2114. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the GPS until you have received a Grants.gov tracking number. In the event you are not able to obtain a tracking number, call the GPS as soon as possible.

If an applicant needs to submit a paper application instead of submitting electronically via Grants.gov, prior approval must be requested and obtained (*see* page 16 for additional information). The waiver must be documented in writing (e-mails are acceptable), *before* submitting a paper application. A copy of the written approval must be submitted along with the hardcopy that is mailed to the DGO (Refer to Section VII to obtain the mailing address). Paper applications that are submitted without a waiver will be returned to the applicant without review or further consideration. Late applications will not be accepted for processing, will be returned to the applicant and will not be considered for funding.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre award costs are allowable pending prior approval from the awarding agency. However, in accordance with 45 CFR Part 74 all pre award costs are incurred at the recipient's risk. The awarding office is under no obligation to reimburse such costs if for any reason the applicant does not receive an award or if the award to the recipient is less than anticipated.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

Use the *http://www.Grants.gov* Web site to submit an application electronically and select the "Apply for Grants" link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the application via the Grants.gov Web site. Electronic copies of the application may not be submitted as attachments to e-mail messages addressed to IHS employees or offices.

Applicants that receive a waiver to submit paper application documents must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the application deadline.

Applicants that do not adhere to the timelines for Central Contractor Registry (CCR) and/or Grants.gov registration and/or request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in Grants.gov by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- Paper applications are not the preferred method for submitting applications. However, if you experience technical challenges while submitting your application electronically, please contact Grants.gov Support directly at: *http://www.Grants.gov/CustomerSupport* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and waiver from the agency must be obtained.
- If it is determined that a waiver is needed, you must submit a request in writing (e-mails are acceptable) to *Paul.Gettys@ihs.gov* with a copy to *Tammy.Bagley@ihs.gov.* Please include a clear justification for the need to deviate from our standard electronic submission process.
- If the waiver is approved, the application should be sent directly to the DGO by the deadline date of July 23, 2010.

• Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for CCR and Grants.gov could take up to ten working days.

• Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by the DGO.

• All applicants must comply with any page limitation requirements described in this Funding Announcement.

• After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGO will download your application from Grants.gov and provide necessary copies to the appropriate agency officials. Neither the DGO nor the Program Official will notify applicants that the application has been received.

E-mail applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Date Universal Numbering System (DUNS)

Applicants are required to have a DUNS number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a unique nine-digit identification number provided by D&B, which uniquely identifies your entity. The DUNS number is site specific; therefore each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, you may access it through the following Web site *http://fedgov.dnb.com/webform* or to expedite the process call (866) 705–5711.

Another important fact is that applicants must also be registered with the CCR and a DUNS number is required before an applicant can complete their CCR registration. Registration with the CCR is free of charge. Applicants may register online at *http://www.ccr.gov.* Additional information regarding the DUNS, CCR, and Grants.gov processes can be found at: *http://www.Grants.gov.*

Applicants may register by calling 1 (866) 606–8220. Please review and complete the CCR Registration worksheet located at *http://www.ccr.gov*.

V. Application Review Information

Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 65 points is required for funding. Points are assigned as follows:

1. Evaluation Criteria

Project Narrative (30 Points)

a. Describe your legal status and organization.

b. State specific objectives of the project, and the extent to which they are measurable and quantifiable, significant to the needs of Indian people, logical, complete, and consistent with the purpose of section 217.

c. Describe briefly what the project intends to accomplish. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

d. Provide a project specific work plan (milestone chart) which lists each objective, the tasks to be conducted in order to reach the objective, and the time frame needed to accomplish each task. Time frames should be projected in a realistic manner to assure that the scope of work can be completed within each budget period. (A work plan format is provided.)

e. In the case of proposed projects for identification of Indians with a potential for education or training in the health professions, include a method for assessing the potential of interested Indians for undertaking necessary education or training in such health professions.

f. State clearly the criteria by which the project's progress will be evaluated and by which the success of the project will be determined.

g. Explain the methodology that will be used to determine if the needs, goals, and objectives identified and discussed in the application are being met and if the results and benefits identified are being achieved.

h. Identify who will perform the evaluation and when.

Program Planning (20 Points)

a. Provide an organizational chart and describe the administrative, managerial and organizational arrangements and the facilities and resources to be utilized to conduct the proposed project (include in appendix).

b. Provide the name and qualifications of the project director or other individuals responsible for the conduct of the project; the qualifications of the principal staff carrying out the project; and a description of the manner in which the applicant's staff is or will be organized and supervised to carry out the proposed project. Include biographical sketches of key personnel (or job descriptions if the position is vacant) (include in appendix).

c. Describe any prior experience in administering similar projects.

d. Discuss the commitment of the organization, *i.e.,* although not required, the level of non-Federal support. List the intended financial participation, if any, of the applicant in the proposed project specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space, materials or facilities or other contributions.

e. Describe the ability to provide outreach and recruitment for health professions to Indian communities including elementary and secondary schools and community colleges located on Indian reservations which will be served by the program.

f. Describe the organization's plan to incorporate a program advisory board comprised of representatives from the Tribes and communities which will be served by the program.

g. Describe plans to the maximum extent feasible, employ qualified Indians in the program.

Program Evaluation (20 Points)

a. Describe the current and proposed participation of Indians (if any) in your organization.

b. Identify the target Indian population to be served by your proposed project and the relationship of your organization to that population.

c. Describe the methodology to be used to access the target population.

d. Identify affiliation agreements with Tribal community colleges, the IHS, university affiliated programs, and other appropriate entities to enhance the education of Indian students.

e. Identify existing university tutoring, counseling and student support services.

Progress Report (20 Points)

a. Provide data and supporting documentation to substantiate need for recruitment.

b. Indicate the number of potential Indian students to be contacted and recruited as well as potential cost per student recruited. Those projects that have the potential to serve a greater number of Indians will be given first consideration.

Program Budget (10 Points)

a. Clearly define the budget. Provide a justification and detailed breakdown of the funding by category for the first year of the project. Information on the project director and project staff should include salaries and percentage of time assigned to the grant. List equipment purchases necessary to conduct of the project.

b. The available funding level of $252,462 is inclusive of both direct and

indirect costs or 8 percent of total direct costs. Because this project is for a training grant, the Department of Health and Human Services' policy limiting reimbursement of indirect cost to the lesser of the applicant's actual indirect costs or 8 percent of total direct costs (exclusive of tuition and related fees and expenditures for equipment) is applicable. This limitation applies to all institutions of higher education.

c. The applicant may include as a direct cost tuition and student support for students who have been selected to receive a scholarship through the American Indians into Psychology Program grant. Scholarship support consists of full tuition/fees and a monthly stipend for 12 months. The current stipend is to be $1,500.00 per month and adjusted annually at 2%.

d. Projects requiring a second and third year must include a program narrative and categorical budget and justification for each additional year of funding requested (this is not considered part of the 15-page narrative).

e. Provide budgetary information for summer preparatory programs for Indian students, who need enrichment in the subjects of math and science in order to pursue training in the health professions.

f. Provide budget information on stipends that will be provided to undergraduate and graduate students to pursue a career in clinical psychology. Stipends for individuals will not be funded during the first year of the project only if the grantee has not had an established American Indians into Psychology Program grant because the first year will involve recruiting individuals. Stipends must be included in the budget and narrative for the second through fourth years of the project.

Multi-Year Project Requirements

1. Applications must include a narrative, budget, and budget justification for the second, third and fourth year of funding.

Appendix to include:

a. Resumes and position descriptions.

b. Organizational Chart.

c. Work Plan.

2. Review and Selection Process

Each application will be prescreened by the DGO staff for eligibility and completeness as outlined in the funding announcement. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the Objective Review Committee. Applicants will be notified by DGO, via letter, to outline the missing components of the application.

To obtain a minimum score for funding, applicants must address all program requirements and provide all required documentation. Applicants that receive less than a minimum score will be informed via e-mail of their application's deficiencies. A summary statement outlining the strengths and weaknesses of the application will be provided to these applicants. The summary statement will be sent to the Authorized Organizational Representative (AOR) that is identified on the face page of the application.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) will be initiated by the DGO and will be mailed to each entity that is approved for funding under this announcement. The NoA will be signed by the Grants Management Officer, and this is the authorizing document for which funds are dispersed to the approved entities. The NoA will serve as the official notification of the grant award and will reflect the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period. The NoA is the legally binding document and is signed by an authorized grants official within the IHS.

2. Administrative Requirements

Grants are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this Program Announcement.

B. Administrative Regulations for Grants:

- 45 CFR Part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments.
- 45 CFR Part 74, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Title 2: Grant and Agreements, Part 225—Cost Principles for State, Local, and Indian Tribal Governments (OMB A–87).
- Title 2: Grant and Agreements, Part 230—Cost Principles for Non-Profit Organizations (OMB Circular A–122).

E. Audit Requirements:

- OMB Circular A–133, Audits of States, Local Governments, and Non-profit Organizations.

3. Indirect Costs

This section applies to all grant recipients that request indirect costs in their application. In accordance with HHS Grants Policy Statement, Part II 27, IHS requires applicants to have a current indirect cost rate agreement in place prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate means the rate covering the applicable activities and the award budget period. If a current rate is not on file with the awarding office, the award shall include funds for reimbursement of indirect costs. However, the indirect cost portion will remain restricted until the current rate is provided to the DGO.

Generally, indirect cost rates for IHS Tribal organization grantees are negotiated with the Division of Cost Allocation (DCA) at *http://rates.psc.gov/,* and indirect cost rates that are for IHS-funded, Federally-recognized Tribes are negotiated with the Department of the Interior. If your organization has questions regarding the indirect cost policy, please contact the DGO at (301) 443 5204.

4. Reporting

Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. The reporting requirements for this program are noted below.

A. *Progress Report.* Program progress reports are required annually. These reports will include a brief comparison of actual accomplishments to the goals established for the period, reasons for unmet accomplishments (if applicable), and other pertinent information as required. A final report must be submitted within 90 days after the expiration of the budget/project period.

B. *Financial Status Report.* Annual Financial Status Reports (FSR) reports

must be submitted within 90 days after the budget period ends. Final FSRs are due within 90 days of expiration of the project period. Standard Form 269 (long form for those reporting on program income; short form for all others) will be used for financial reporting.

Federal Cash Transaction Reports are due every calendar quarter to the Division of Payment Management, Payment Management Branch, Department of Health and Human Services at: *http://www.dpm.gov.* Failure to submit timely reports may cause a disruption in timely payments to your organization.

Grantees are responsible and accountable for accurate reporting of the Progress Reports and Financial Status Reports which are generally due annually. Financial Status Reports (SF–269) are due 90 days after each budget period and the final SF–269 must be verified from the grantee records on how the value was derived. Annual financial status reports must be submitted within 90 days after the end of the budget period. Final financial status reports are due within 90 days of expiration of the budget/project period. Standard Form 269 (long form) will be used for financial reporting.

5. Telecommunication for the hearing impaired is available at: TTY 301–443–6394

VII. Agency Contacts

For program information, contact Mr. Michael Berryhill, Office of Public Health Support, Division of Health Professions Support, 801 Thompson Avenue, TMP Suite 450A, Rockville, Maryland, 20852 (301) 443–2443.

For grant application and business management information, contact Ms. Denise Clark, Division of Grants Operations, Indian Health Service, 801 Thompson Avenue, TMP Suite 360, Rockville, Maryland 20852 (301) 443–5204.

Yvette Roubideaux,

Director, Indian Health Service.

[FR Doc. 2010–15423 Filed 6–24–10; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2006–P–0089 (formerly Docket No. 2006P–0144)]

Determination That DELALUTIN (hydroxyprogesterone caproate) Injection, 125 Milligrams/Milliliter and 250 Milligrams/Milliliter, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that DELALUTIN (hydroxyprogesterone caproate) injection, 125 milligrams (mg)/milliliter (mL) and 250 mg/mL, was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for hydroxyprogesterone caproate injection, 125 mg/mL and 250 mg/mL, if all other legal and regulatory requirements are met. However, in considering whether to file an ANDA for hydroxyprogesterone caproate, future applicants are advised that they may not be able to obtain DELALUTIN (hydroxyprogesterone caproate) injection, 125 mg/mL and 250 mg/mL, for bioequivalence testing because the product has not been commercially available for a number of years. An ANDA applicant who is unable to obtain DELALUTIN (hydroxyprogesterone caproate) injection, 125 mg/mL and 250 mg/mL, for bioequivalence testing should contact the Office of Generic Drugs for a determination of what is necessary to show bioavailability and same therapeutic effect.

FOR FURTHER INFORMATION CONTACT: Nam Kim, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6320, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)) (the act), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162). Under § 314.161(a)(1) (21 CFR 314.161(a)(1)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

DELALUTIN (hydroxyprogesterone caproate) injection, 125 mg/mL and 250 mg/mL, is the subject of NDA 10–347 and NDA 16–911 held by Bristol-Myers Squibb Company (BMS). According to the latest version of the approved labeling for DELALUTIN (hydroxyprogesterone caproate) injection, DELALUTIN is indicated in non-pregnant women: for the treatment of advanced adenocarcinoma of the uterine corpus (Stage III or IV); in the management of amenorrhea (primary and secondary) and abnormal uterine bleeding due to hormonal imbalance in the absence of organic pathology, such as submucous fibroids or uterine cancer; as a test for endogenous estrogen production ("Medical D and C"); and for the production of secretory endometrium and desquamation.

FDA originally approved NDA 10–347 for DELALUTIN (hydroxyprogesterone caproate) injection based on a finding of safety in 1956. The indications section of the original labeling approved in 1956 states that DELALUTIN appears to be useful in conditions generally responding to progestogens and provided suggested dosing and administration for the following indications: primary and secondary amenorrhea; metropathia hemorrhagica

(functional uterine bleeding) not associated with genital malignancy; infertility with inadequate corpus luteum function; production of secretory endometrium and desquamation during estrogen therapy; premenstrual tension; dysmenorrhea; cyclomastopathy, mastodynia, adenosis, chronic cystic mastitis; habitual and threatened abortion; postpartum after-pains; test for endogenous estrogen production; and test for continuous endogenous progesterone production. In 1970, a supplement to NDA 10–347 was submitted for the additional indication of treatment of advanced adenocarcinoma of the uterine corpus (Stage III or IV). FDA reviewed this supplement as an original NDA (NDA 16–911) because it proposed a new indication, and approved it as both safe and effective in 1972. Both NDA 10–347 and NDA 16–911 reference the same drug product and utilize the same labeling.

The indications for DELALUTIN (hydroxyprogesterone caproate) injection, other than the indication for treatment of advanced adenocarcinoma of the uterine corpus (Stage III or IV), were reviewed for efficacy under the Drug Efficacy Study Implementation (DESI) program. In the **Federal Register** of September 9, 1971 (36 FR 18115), FDA announced that preparations containing hydroxyprogesterone caproate are effective for use in amenorrhea and abnormal uterine bleeding due to hormonal imbalance in the absence of organic pathology, such as submucous fibroids or uterine cancer; as a presumptive test for pregnancy; as a test for continuous endogenous progesterone production; and for production of secretory endometrium and desquamation—as a test for endogenous estrogen production (medical D and C). FDA also announced that preparations containing hydroxyprogesterone caproate are *probably* effective for habitual and threatened abortion and cyclomastopathies (mastodynia, adenosis, chronic cystic mastitis) and *possibly* effective for use in premenstrual tension and dysmenorrhea and disturbances of the menstrual cycle (hypomenorrhea, oligomenorrhea, irregular cycles). In addition, FDA announced that hydroxyprogesterone caproate lacks substantial evidence of effectiveness for use in postpartum afterpains and, when used alone, in deficiency syndromes (castration, primary ovarian failure, menopause, senile vaginitis, and pruritis vulvae). The notice announced that FDA was prepared to approve NDAs and supplements to previously approved NDAs under the conditions described in the notice, including the condition that the revised labeling include only the indications for which the drug was classified as effective or probably effective.

In the **Federal Register** of October 10, 1973 (38 FR 27947), FDA announced that it was modifying its prior conclusions with respect to the indications for DELALUTIN (hydroxyprogesterone caproate) injection that were determined to be probably effective and possibly effective. FDA stated that the additional information submitted by BMS to support use of DELALUTIN in threatened and habitual abortion does not constitute substantial evidence of effectiveness. In addition, the notice stated that data had become available which suggested a possible association of prenatal hormonal treatment of mothers with congenital heart defects in the offspring. The notice stated that the potential risk of teratogenic effects is considered high enough to warrant removal of pregnancy-related indications from the labeling of progestins currently marketed for systemic use, which are as follows: (1) Presumptive test for pregnancy, (2) treatment of threatened and habitual abortion, and (3) treatment of any abnormalities of pregnancy, including pregnancy complicating diabetes. The notice concluded that the labeling section given in the September 9, 1971, announcement for hydroxyprogesterone caproate should be amended to read as follows: "This drug is indicated in amenorrhea; abnormal uterine bleeding due to hormonal imbalance in the absence of organic pathology, such as submucous fibroids or uterine cancer; for production of secretory endometrium and desquamation; and as a test for endogenous estrogen production (Medical D & C)."

In the **Federal Register** of July 22, 1977 (42 FR 37646), FDA stated that reports during the past several years had indicated that the use of sex hormones during early pregnancy may seriously damage the offspring. FDA stated that in view of the adverse effects on the fetus that may be associated with its exposure to pregestational hormones, the labeling for all progestational drug products except those for use as contraceptives should be revised to include an additional contraindication and warning regarding the use of progestational agents during pregnancy. In the **Federal Register** of October 13, 1978 (43 FR 47178), FDA published a final rule requiring the labeling of progestational drug products to include warnings informing patients of an increased risk of birth defects associated with the use of these drugs during the first 4 months of pregnancy. In the **Federal Register** of January 12, 1989 (54 FR 1243), FDA published revised guideline texts for professional and patient labeling for prescription progestational drug products not including progestogen-containing oral contraceptive drug products. The notice revised the guideline texts by: (1) Deleting the warning about possible congenital heart defects and limb reduction defects, and (2) adding a warning stating that the use of progestational drugs in pregnancy may cause certain genital abnormalities.

In the **Federal Register** of November 16, 1999 (64 FR 62110), FDA revoked its regulation requiring such patient labeling for progestational drug products because it concluded, based on a review of the scientific data, that such labeling for all progestogens was not warranted. In the notice, FDA stated that the diversity of drugs that can be described as progestational and the diversity of conditions these drugs may be used to treat make it inappropriate to consider these drugs a single class for labeling purposes.

By letter dated September 13, 1999, BMS requested withdrawal of NDA 10–347 for DELALUTIN (hydroxyprogesterone caproate) injection and stated that the drug product had not been marketed for several years. In the **Federal Register** of September 13, 2000 (65 FR 55264), FDA announced that it was withdrawing approval of NDA 10–347 and NDA 16–911, effective September 30, 2000.

CUSTOpharm, Inc., submitted a citizen petition dated March 27, 2006 (Docket No. FDA–2006–P–0089), under 21 CFR 10.30, requesting that the agency determine whether DELALUTIN (hydroxyprogesterone caproate) injection was withdrawn from sale for reasons of safety or effectiveness and therefore is suitable for submission in an ANDA. After considering the citizen petition (including comments submitted) and reviewing agency records, FDA has determined that DELALUTIN (hydroxyprogesterone caproate) injection, 125 mg/mL and 250 mg/mL, was not withdrawn from sale for reasons of safety or effectiveness. The petitioner identified several publications discussing the potential teratogenic properties of DELALUTIN (hydroxyprogesterone caproate) injection over the years but asserts that recent studies indicate that with proper administration (beginning in the second trimester) in high risk patients these risks are minimal or not evident. In view of these studies, the petitioner

seeks a determination that DELALUTIN (hydroxyprogesterone caproate) injection was not withdrawn for reasons of safety or efficacy. FDA has reviewed the information submitted by petitioner and has independently evaluated relevant literature and data for adverse event reports for DELALUTIN (hydroxyprogesterone caproate) injection. Based on its evaluation, FDA does not consider this information to indicate that DELALUTIN (hydroxyprogesterone caproate) injection, 125 mg/mL and 250 mg/mL, was withdrawn for reasons of safety or effectiveness.

For the reasons outlined in this document, FDA determines that DELALUTIN (hydroxyprogesterone caproate) injection, 125 mg/mL and 250 mg/mL, was not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the agency will continue to list DELALUTIN (hydroxyprogesterone caproate) injection, 125 mg/mL and 250 mg/mL, in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to DELALUTIN (hydroxyprogesterone caproate) injection, 125 mg/mL and 250 mg/mL, may be approved by the agency as long as they meet all relevant legal and regulatory requirements for approval of ANDAs. If FDA determines that labeling for these drug products should be revised to meet current standards, the agency will advise ANDA applicants to submit such labeling.

In considering whether to file an ANDA for this drug product, future applicants should be advised that they may not be able to obtain DELALUTIN (hydroxyprogesterone caproate) injection, 125 mg/mL and 250 mg/mL, for bioequivalence testing because the product has not been commercially available for a number of years. An ANDA applicant who is unable to obtain DELALUTIN (hydroxyprogesterone caproate) injection, 125 mg/mL and 250 mg/mL, for bioequivalence testing should contact the Office of Generic Drugs for a determination of what showing is necessary to satisfy the requirements of section 505(j)(2)(A)(iv) of the act. If an ANDA is approved without a showing of bioequivalence, the approved product will not be considered therapeutically equivalent (i.e., granted an AB rating) in the Orange Book.

Dated: June 21, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–15416 Filed 6–24–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0283]

Draft Guidance for Industry on Chemistry, Manufacturing, and Controls Postapproval Manufacturing Changes Reportable in Annual Reports; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "CMC Postapproval Manufacturing Changes Reportable in Annual Reports." This draft guidance provides recommendations to holders of new drug applications (NDAs) and abbreviated new drug applications (ANDAs) regarding the types of changes that may be reported in annual reports. Specifically, the draft guidance describes chemistry, manufacturing, and controls (CMC) postapproval manufacturing changes that FDA has determined will likely present minimal potential to have adverse effects on product quality and, therefore, may be reported by applicants in an annual report. (The draft guidance excludes positron emission tomography (PET) drug products.)

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by September 23, 2010.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments, including comments regarding the proposed collection of information, to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jon Clark, Center for Drug Evaluation and Research, Food and Drug Administration, Bldg. 51, rm. 4178, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–2400.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled "CMC Postapproval Manufacturing Changes Reportable in Annual Reports." This draft guidance provides recommendations to holders of NDAs and ANDAs regarding the types of CMC postapproval manufacturing changes that FDA has determined will likely present minimal potential to have adverse effects on product quality, and therefore, may be reported by applicants in an annual report under § 314.70 (21 CFR 314.70).

In its September 2004 final report, "Pharmaceutical Current Good Manufacturing Practices (CGMPs) for the 21st Century—A Risk-Based Approach" (Pharmaceutical Product Quality Initiative, *http://www.fda.gov/Drugs/DevelopmentApprovalProcess/Manufacturing/QuestionsandAnswersonCurrentGoodManufacturingPracticescGMPforDrugs/ucm137175.htm*), FDA stated that to keep pace with the many advances in quality management practices in manufacturing and to enable the agency to more effectively allocate its limited regulatory resources, FDA would implement a cooperative, risk-based approach for regulating pharmaceutical manufacturing. As part of this approach, FDA determined that to provide the most effective public health protection, its CMC regulatory review should be based on an understanding of product risk and how best to manage this risk.

The number of CMC manufacturing supplements for NDAs and ANDAs has continued to increase over the last several years. In connection with FDA's Pharmaceutical Product Quality Initiative and its risk-based approach to CMC review, FDA has evaluated the types of changes that have been submitted in CMC postapproval manufacturing supplements and determined that many of the changes being reported present very low risk to the quality of the product and do not need to be submitted in supplements.

Based on this recent evaluation, FDA developed a list (attached as an appendix to the draft guidance) to provide current recommendations to companies regarding which postapproval manufacturing changes for NDAs and ANDAs may be considered to have a minimal potential for an adverse effect on the identity, strength, quality, purity, or potency of the drug product and, therefore, may be classified as a change reportable in an annual report (e.g., notification of a change after implementation) rather than in a supplement.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on CMC postapproval manufacturing changes reportable in annual reports for NDAs and ANDAs. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (44 U.S.C. 3501–3520) (the PRA), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: CMC Postapproval Manufacturing Changes Reportable in Annual Reports.

Description of Respondents: Respondents to this collection of information are applicants of approved NDAs and ANDAs.

Burden Estimate: FDA is requesting public comment on estimates of annual submissions from these respondents, as required by § 314.70 and §§ 314.71, 314.81(b)(2), and 314.97 (21 CFR 314.71, 314.81(b)(2), and 314.97) and described in this draft guidance. Sections 314.70 and 314.71 require that supplements be submitted to FDA for certain changes to an approved application. Section 314.81(b)(2) requires that annual reports be submitted to FDA (Form FDA 2252). Section 314.97 sets forth requirements for submitting supplements to an approved ANDA for changes that require FDA approval. Section 314.98(c) requires annual reports and other postmarketing reports for ANDAs. The estimate for annual reports for ANDAs is included under § 314.81(b)(2). Other postmarketing reports under § 314.98(c) are not implicated by this notice.

The draft guidance describes our current thinking on the interpretation of these requirements. Part of the intent for this draft guidance is to reduce the burden of reporting some manufacturing changes. Currently, for postapproval changes considered to be major, applicants of NDAs and ANDAs must submit and receive FDA approval of a supplement before the product made with the manufacturing change is distributed. If a change is considered to be moderate, an applicant must submit a supplement at least 30 days before the product is distributed or, in some cases, submit a supplement at the time of distribution. If a change is considered to be minor, an applicant may proceed with the change, but must notify FDA of the change in an annual report. When a change is approved via a supplemental application, these changes currently also must be reported in the annual report. The draft guidance describes the types of postapproval changes that applicants of NDAs and ANDAs currently submit in supplements to NDAs or ANDAs but that, under the draft guidance, may now be reported only in annual reports and do not need prior FDA approval. As a result, applicants would no longer need to submit supplements for such changes.

FDA currently has OMB approval for the collection of information entitled, "Application for Food and Drug Administration Approval to Market a New Drug" (OMB Control Number 0910–0001). This collection of information includes all information requirements imposed by the regulations under part 314 (21 CFR part 314) on applicants who apply for approval of an NDA or ANDA to market or change an approved application. In particular, among other things, this collection of information includes: (1) The submission of supplements to FDA for certain changes to an approved application in accordance with §§ 314.70 and 314.71; (2) the submission of annual reports to FDA (Form FDA 2252) in accordance with § 314.81(b)(2); (3) the submission of supplements to an approved ANDA for changes that require FDA approval; and (4) other postmarketing reports for ANDAs in accordance with § 314.98(c), of which the estimate for annual reports is included under § 314.81(b)(2). Therefore, this information collection includes the supplements to NDAs and ANDAs and the annual reports for NDAs and ANDAs that are described in the draft guidance.

Under the applicable regulations and the draft guidance, the following change to the current approval by OMB under the PRA is estimated: Supplements to NDAs under §§ 314.70 and 314.71 and supplements to ANDAs under § 314.97. Although the submission of supplements to NDAs and ANDAs is approved under OMB Control Number 0910–0001, the total number of supplements submitted per year is estimated to be reduced based on the recommendations in the draft guidance because certain changes submitted as supplements would now be submitted in annual reports. Therefore, for such changes, the information collection with respect to the submission of supplements will be reduced. Because the number of supplements per year is estimated to be reduced, the total number of hours for preparing supplements is also estimated to be reduced.

Based on FDA's knowledge of supplements and annual reports to NDAs and ANDAs, as well as the agency's familiarity with the time needed to prepare supplements and annual reports, our estimates for this information collection are as follows: The total number of supplements submitted per year is estimated to be reduced based on the recommendations in the draft guidance. Based on the number of CMC manufacturing supplements received for NDAs and ANDAs during 2008, FDA estimates that it will receive annually approximately 800 responses under §§ 314.70 and 314.71 for NDAs and approximately 2,075 responses under § 314.97 for ANDAs. The number of annual frequencies per response will decrease accordingly. FDA estimates that approximately the same number of respondents will submit responses under §§ 314.70, 314.71, and 314.97 and each response will take approximately the same amount of time to prepare as in the information collection currently approved under OMB Control Number 0910–0001.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours Per Response	Total Hours
314.70 and 314.71	281 (same as currently approved)	2.85	800	150 (same as currently approved)	120,000
314.97	215 (same as currently approved)	9.65	2,075	80 (same as currently approved)	166,000
Total Hours					286,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Therefore, the estimated annual reporting burden for this information collection is 286,000 hours.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: June 21, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–15415 Filed 6–24–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

A New Class of Antibiotics: Natural Inhibitors of Bacterial Cytoskeletal Protein FtsZ To Fight Drug-Susceptible and Multi-Drug Resistant Bacteria

Description of Invention: The risk of infectious diseases epidemic has been alarming in recent decades. This is not only because of the increase incident of so-called "super bugs," but also because of the scarce number of potential antibiotics in the pipeline. Currently, the need for new antibiotics is greater than ever! The present invention by the National Institute of Diabetes and Digestive and Kidney Disease (NIDDK), part of the National Institute of Health (NIH), address this urgent need. The invention is a new class of chrysophaentin antibiotics that inhibit the growth of broad-spectrum, drug-susceptible, and drug-resistant bacteria.

Derived from the yellow algae *Chrysophaeum taylori,* the inventor has extracted 8 small molecules of natural products and tested for antimicrobial activity against drug resistant bacteria, methicillin-resistant *Staphylococcus aureus* (MRSA) and vancomycin-resistant *Enterococcus faecalis* (VRE), as well as other drug susceptible strains. Structurally, the molecules represent a new class of antibiotic that also likely work through a distinct mechanism of action from that of current antibiotics, which is key for the further development of antibiotics that inhibit drug-resistant strains.

The bacterial cytoskeletal protein FtsZ is a GTPase and has structural homology to the eukaryotic cytoskeletal protein tubulin, but lacks significant sequence similarity. FtsZ is essential for bacterial cell division. It is responsible for Z-ring assembly in bacteria, which leads to bacterial cell division. Experiments show that the disclosed compounds are competitive inhibitors of GTP binding to FtsZ, and must bind in the GTP-binding site of FtsZ. Inhibition of FtsZ stops bacterial cell division and is a validated target for new antimicrobials. FtsZ is highly conserved among all bacteria, making it a very attractive antimicrobial target.

Applications:

- Therapeutic potential for curing bacterial infections *in vivo,* including for clinical and veterinary applications.
- Antiseptics in hospital sittings.
- Since FtsZ is structurally similar, but do not share sequence homology to eukaryotic cytoskeletal protein tubulin, these compounds may have antitumor properties against some cancer types or cell lines.

Advantages:

- Structurally distinct antimicrobial compounds.
- Attack newly validated antibacterial targeted protein FtsZ.
- These compounds have a unique mechanism of action which inhibit FtsZ by inhibiting FtsZ GTPase activity.
- Inhibit drug-susceptible and drug-resistant bacteria.

Development Status:

• Initial isolation and chemical structural characterization using NMR spectroscopy have been conducted.

• Antimicrobial testing against MRSA, *Enterrococcus faecium,* and VRE were conducted *in vitro* using a modified disk diffusion assay and microbroth liquid dilution assays.

• MIC_{50} values were determined using a microbroth dilution assay.

• Mode of action was elucidated and Saturation Transfer Difference (STD) NMR was conducted to map the binding epitope of one of these compounds in complex with recombinant FtsZ.

• Other experiments on different areas to further characterize these compounds and their mode of action are currently ongoing.

Market: The market potential for the disclosed compounds is huge due to the very limited number of new antibiotics developed in recent decades and the increased epidemic of infectious diseases. In fact, infectious diseases are the leading cause of death worldwide. In the United States alone, more people die from MRSA than from HIV (Journal of the American Medical Association, 2007) and more than 90,000 people die each year from hospital acquired bacterial infections (Centers for Disease Control).

According to the recent report, "*Antibiotics Resistance and Antibiotic Technologies: Global Markets*" published in November 2009, there has been a revival in the antibiotics sector over the past few years. Although some companies are developing analogues of existing antibiotic classes and putting them into clinical trials, other start-up biotechnology companies have come up with molecules that adopt new approaches in tackling antimicrobial infections. The antibacterials market can be split into two major groups: The community market and the hospital market. The smaller hospital market is expanding more rapidly, driven by rising resistant rates, a more severely ill patient population and newer, premium-priced injectable antibiotics. Interestingly, several big pharmaceutical companies have recently made strategic decisions to expand their presence in this sector by either acquiring other companies or in-licensing new compounds.

While the number of such new molecules in the approval stages is still low, R&D pipelines are promising, and several novel classes of antibiotics are in their early stages of development. This antibacterial R&D bailout that started about 5 years ago due to tougher regulatory conditions, restrictions on the use of antibiotics and emergence of resistance to newer antibiotics within 3 years has helped create global antimicrobial therapeutic market of $24 billion in 2008 with 14 products recording sales of more than $1 billion.

Inventors: Carole A. Bewley *et al.* (NIDDK).

Related Publications:

1. DJ Haydon *et al.* An inhibitor of FtsZ with potent and selective anti-staphylococcal activity. Science. 2008 Sept 19; 321(5896):1673–1675. [PubMed: 18801997].

2. NR Stokes *et al.* Novel inhibitors of bacterial cytokinesis identified by a cell-based antibiotic screening assay. J Biol Chem. 2005 Dec 2; 280(48):39709–39715. [PubMed: 16174771].

3. J Wang *et al.* Discovery of small molecule that inhibits cell division by blocking FtsZ, a novel therapeutic target of antibiotics. J Biol Chem. 2003 Nov 7; 278(45):44424–44428. [PubMed: 12952956].

4. P Domadia *et al.* Berberine targets assembly of Escherichia coli cell division protein FtsZ. Biochemistry. 2008 Mar 11; 47(10):3225–3234. [PubMed: 18275156].

5. P Domadia *et al.* Inhibition of bacterial cell division protein FtsZ by cinamaldehyde. Biochem Pharmacol. 2007 Sep 15:74(6):831–840. [PubMed: 17662960].

6. S Urgaonkar *et al.* Synthesis of antimicrobial natural products targeting FtsZ: (+/−)-dichamanetin and (+/−)-2‴-hydroxy-5″-benzylisouvarinol-B. Org Lett. 2005 Dec 8;7(25):5609–5612. [PubMed: 16321003].

Patent Status: U.S. Provisional Application No. 61/308,911 filed 27 Feb 2010 (HHS Reference No. E–116–2010/0–US–01).

Licensing Status: Available for licensing.

Licensing Contacts: Uri Reichman, PhD, MBA; 301–435–4616; *UR7a@nih.gov*; or John Stansberry, PhD; 301–435–5236; *stansbej@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute of Diabetes and Digestive and Kidney Diseases, Laboratory of Bioorganic Chemistry is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the chrysophaentin antibiotics. Please contact Cindy K. Fuchs at 301–451–3636 or *cfuchs@mail.nih.gov* for more information.

Hepatoma Cell Line That Can Be Infected With Both Hepatitis C and Human Immunodeficiency (HIV–1) Viruses

Description of Invention: It is estimated that 250,000 HIV patients in the U.S. are chronically infected with hepatitis C virus (HCV). Co-infection of HCV and HIV is associated with increased morbidity and mortality relative to mono-infection with either virus. Compared to HCV mono-infected individuals, HCV/HIV co-infected individuals experience rapid progression of liver disease, have higher HCV RNA viral levels, decreased cure rates, and increased toxic reactions to anti-HCV therapy. Understanding how these two viruses interact has been difficult because a cell culture system that supports HCV growth in the laboratory was not available. Recently, a continuous culture system to propagate HCV was discovered, however these cells do not express receptors that allow for infection by HIV. The inventors were able to genetically transform these cells (liver cancer) to express HIV receptors and successfully infect them with both viruses. This modified cell culture system will be useful for studying the interactions between HCV and HIV within the same cell and will serve as a model to understand the pathogenesis of HCV/HIV co-infection.

Applications:

• Use for clinical research to study the pathogenesis of HCV/HIV co-infection.

• Use in development of drugs to control both HIV and HCV infections.

Development Status:

• The cell line has been fully generated.

• Materials will be readily available if so requested.

Inventors: Shyam Kottilil, Xiaozhen Zhang, and Marybeth E. Daucher (NIAID).

Relevant Publication: Matthews GV and Dore GJ. HIV and hepatitis C coinfection. J Gastroenterol Hepatol. 2008 Jul;23(7 Pt 1):1000–1008. [PubMed: 18707597].

Patent Status: HHS Reference No. E–107–2009/0—Research Material. Patent protection is not being pursued for this technology.

Licensing Status: Available for licensing.

Licensing Contacts: Uri Reichman, PhD, MBA; 301–435–4616; *UR7a@nih.gov*; or John Stansberry, PhD; 301–435–5236; *js852e@nih.gov.*

Dated: June 21, 2010.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2010–15476 Filed 6–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0076] (formerly Docket No. 2007D–0387)

Guidance for Industry and Food and Drug Administration Staff; In Vitro Diagnostic Studies—Frequently Asked Questions; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled "In Vitro Diagnostic (IVD) Device Studies—Frequently Asked Questions." FDA is issuing this guidance to assist manufacturers in developing and conducting studies for IVD devices, particularly those exempt from most of the Investigational Device Exemption (IDE) regulations. The guidance explains data considerations that ultimately will affect the quality of the premarket submission. The draft of this guidance was issued October 25, 2007.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled " In Vitro Diagnostic (IVD) Device Studies—Frequently Asked Questions" to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993–0002, or to the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to CDRH at 301–847–8149. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Sally Hojvat, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 5524, Silver Spring, MD 20993–0002, 301–796–5455; or

Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

This guidance facilitates the movement of new IVD technology from the investigational stage to the marketing stage by providing information about the development and conduct of IVD studies that will be submitted to the agency to support premarket notifications and applications. Because many IVD studies are exempt from most of the IDE regulations at part 812 (21 CFR part 812) (§ 812.2(c)(3)), industry sponsors and FDA staff often have questions concerning the relevant requirements and appropriate methods for such studies. This guidance provides information about such studies as well as general information about the development, conduct, and responsibilities associated with all IVD studies. CDRH and CBER both have regulatory oversight of IVD devices. Information in this guidance is relevant to IVD devices regulated by either center under chapter I of title 21 of the Code of Federal Regulations, subchapter H.

In the **Federal Register** of October 25, 2007 (72 FR 60682), FDA announced the availability of the draft guidance. FDA received one comment regarding the use of investigational IVD devices in clinical drug trials. The comment addresses issues outside the scope of this guidance because this guidance makes recommendations for studies to support premarket notifications and approvals of IVD devices and does not address the use of investigational devices in clinical studies designed to evaluate new drug products.

FDA made several minor wording changes to the guidance document in order to improve clarity, however there are no significant, substantive changes.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the agency's current thinking on "In Vitro Diagnostic (IVD) Device Studies—Frequently Asked Questions." It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by using the Internet. To receive "In Vitro Diagnostic (IVD) Device Studies—Frequently Asked Questions," you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1587 to identify the guidance you are requesting.

A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.regulations.gov* or the CBER Internet site at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm*.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807 (21 CFR part 807), subpart E, including § 807.87, have been approved under OMB control no. 0910–0120; the collections of information in 21 CFR part 860 have been approved under OMB control no. 0910–0138; the collections of information in 21 CFR part 812 have been approved under OMB control no. 0910–0078; the collections of information in 21 CFR parts 50 and 56 have been approved under OMB control no. 0910–0130; the collections of information in 21 CFR part 803 have been approved under OMB control no. 0910–0437; the collections of information in 21 CFR part 810 have been approved under OMB control no. 0910–0432; the collections of information in part 814 (21 CFR part 814), subparts B and E, have been approved under OMB control no. 0910–0231; the collections of information in part 814, subpart H, have been approved under OMB control no. 0910–0332; the collections of information in 21 CFR part 820 have

been approved under OMB control no. 0910–0073; the collections of information in 21 CFR part 610 have been approved under OMB control nos. 0910–0116 and 0910–0338; and the collections of information in 21 CFR 809.10 have been approved under OMB control no. 0910–0485.

V. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 21, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–15417 Filed 6–24–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Legislative Changes to Nursing Student Loan Program Authorized Under Title VIII of the Public Health Service Act

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: On March 23, 2010, President Obama signed into law the Patient Protection and Affordable Care Act (ACA), Public Law (Pub. L.) 111–148. Section 5202 of the ACA changes the Nursing Student Loan (NSL) program by: (1) Increasing the limits of loan funds to students; (2) revising the date of enrollment to be considered eligible to receive NSL funds; and (3) revising the date of loans eligible for partial loan cancellation.

SUPPLEMENTARY INFORMATION: The Nursing Student Loan (NSL) program was authorized by the Nurse Training Act of 1964 (Pub. L. 88–581) to alleviate the shortage of nursing personnel and to assure that no qualified student was denied the pursuit of a nursing career due to lack of financial resources. The NSL program provides long-term, low-interest loans to full-time and half-time students to help meet the cost of education. Students are eligible to apply for the NSL program if pursuing a course of study leading to a diploma in nursing, an associate or bachelor's degree in nursing or an equivalent degree, or a graduate degree in nursing. Below are details on how the ACA changes Sections 836(a), 836(b)(1), and 836(b)(3) of the Public Health Service Act, respectively, regarding the administration of the NSL program.

Loan Funding Limits

The ACA increases the maximum amount of NSL funding a student can receive. Previously, the total amount of NSL funds for any academic year could not exceed $2,500 in the case of any student except that, for the final 2 academic years of the program involved, such total could not exceed $4,000. With the legislative change, however, the new total amount of the loans for any academic year from NSL funds may not exceed $3,300 in the case of any student except that, for the final two academic years of the program involved, such total may not exceed $5,200.

Prior to the ACA, the aggregate of the NSL loans for all years from such funds was a maximum of $13,000 in the case of any student. Now, the aggregate of the loans for all years from such funds may not exceed $17,000 in the case of any student during fiscal years 2010 and 2011. After fiscal year 2011, the amounts shall be adjusted to provide for a cost-of-attendance increase for the yearly loan rate and the aggregate of the loans. (Section 5202(a) of the ACA.)

Date of Enrollment

The ACA changes the date a student of financial need must be enrolled in a nursing program in order to be eligible to receive NSL funds. Previously an NSL loan could be made to a student of financial need who was enrolled after June 30, 1986. Now, an NSL loan can be made to a student of financial need who was enrolled after June 30, 2000. (Section 5202(b)(1) of the ACA.)

To be eligible, students are still also required to: (1) Pursue a full-time or half-time course of study at the school leading to a baccalaureate or associate degree in nursing or an equivalent degree, or a diploma in nursing, or a graduate degree in nursing and (2) be capable, in the opinion of the school, of maintaining good standing in such course of study.

Partial Loan Cancellation Date

Prior to the ACA, students who received NSL loans before September 29, 1979, could receive partial cancellation of their loans. Now, however, partial loan cancellation applies to loans received by students before September 29, 1995. (Section 5202(b)(2) of the ACA.)

A student who received such an NSL before September 29, 1995, can have an amount up to 85 percent of that nursing student loan (plus interest thereon) cancelled for full-time employment as a professional nurse in any public or non-profit private agency, institution, or organization, at the rate of 15 percent of the amount of such loan (plus interest) unpaid on the first day of such service for each of the first, second, and third complete year of such service, and 20 percent of such amount (plus interest) for each complete fourth and fifth year of such service. Employment as a professional nurse may include teaching in any of the fields of nurse training and serving as an administrator, supervisor, or consultant in any of the fields of nursing. Nursing experience prior to March 23, 2010 will not be considered in determining loan cancellation.

Dated: June 21, 2010.

Mary K. Wakefield,

Administrator.

[FR Doc. 2010–15421 Filed 6–24–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Host-Pathogen Interactions.

Date: August 2, 2010.

Time: 9 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817.

Contact Person: Lynn Rust, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, Room 3120, 6700B Rockledge

Drive, MSC 7616. Bethesda, MD 20892. 301–402–3938. *lr228v@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 21, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15485 Filed 6–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Resource Related Research Project in National Biological Sample Data Repository.

Date: July 7, 2010.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: William J Johnson, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924. 301–435–0725. *johnsonw@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Resource Related Research Project in Lung Disease BioRepository.

Date: July 15, 2010.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: William J Johnson, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924. 301–435–0725, *johnsonw@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Coordinating Center for Systems Biology Approach to the Mechanisms of Tuberculosis (TB) Latency and Reactivation.

Date: July 16, 2010.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Holly K Krull, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924. 301–435–0280. *krullh@nhlbi,nih.gov*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Career Enhancement Award for Stem Cell Research.

Date: July 27, 2010.

Time: 10:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: William J Johnson, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924. 301–435–0725. *johnsonw@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Program Project in Cardiovascular Disease.

Date: July 29, 2010.

Time: 10 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: William J Johnson, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924. 301–435–0725. *johnsonwj@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 18, 2010.

Anna P. Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15487 Filed 6–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Council on the National Health Service Corps; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given of the following meeting:

Name: National Advisory Council on the National Health Service Corps (NHSC).

Date and Time: August 4, 2010, 9 a.m.–4 p.m.

Place: Renaissance Washington, DC Downtown Hotel, 999 Ninth Street, NW., Washington, DC 20001, Phone: 202–898–9000.

Status: The meeting will be open to the public.

Agenda: The Council will be convening in Washington, DC to hear updates on the NHSC program and to review and discuss the NHSC's vision, mission and values statements.

FOR FURTHER INFORMATION CONTACT: Njeri Jones, Bureau of Clinician Recruitment and Service, Health Resources and Services Administration, Parklawn Building, Room 8A–46, 5600 Fishers Lane, Rockville, MD 20857; *e-mail: NJones@hrsa.gov; telephone:* 301–443–2541.

Dated: June 21, 2010.

Sahira Rafiullah,

Director, Division of Policy Information and Coordination.

[FR Doc. 2010–15420 Filed 6–24–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Joint Meeting of the Arthritis Advisory Committee and the Drug Safety and Risk Management Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committees: Arthritis Advisory Committee and the Drug Safety and Risk Management Advisory Committee.

General Function of the Committees: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on August 20, 2010, from 8 a.m. to 5 p.m.

Location: Bethesda Marriott, The Ballrooms, 5151 Pooks Hill Rd., Bethesda, MD. The hotel phone number is 301–897–9400.

Contact Person: Anuja Patel, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *anuja.patel@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), codes 3014512532 and 3014512535. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On August 20, 2010, the committees will discuss new drug application (NDA) 22–531, sodium oxybate, 375 milligrams per milliliter (mg/ml) oral solution, sponsored by Jazz Pharmaceuticals, with a proposed indication for the treatment of fibromyalgia for patients 18 years of age and older . The safety and efficacy findings for sodium oxybate in the fibromyalgia population and the proposed Risk Evaluation and Mitigation Strategy (REMS) for this product will be discussed.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before August 6, 2010. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before July 29, 2010. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by July 30, 2010.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Anuja Patel at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 18, 2010.

Thinh Nguyen,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–15507 Filed 6–24–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Peripheral and Central Nervous System Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Peripheral and Central Nervous System Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on August 11, 2010, from 8 a.m. to 5 p.m.

Location: Hilton Washington DC/Silver Spring, The Ballrooms, 8727 Colesville Rd.. Silver Spring, MD. The hotel telephone number is 301–589–5200.

Contact Person: Diem-Kieu Ngo, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *diem.ngo@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512543. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On August 11, 2010, the committee will discuss new drug application (NDA) 22–345, with the proposed trade name POTIGA (ezogabine) Tablets, by Valeant Pharmaceuticals North America. The proposed indication for this new drug product is adjunctive therapy in patients with partial-onset seizures.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 28, 2010. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before July 20, 2010. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by July 21, 2010.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Diem-Kieu Ngo at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 18, 2010.

Thinh Nguyen,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–15504 Filed 6–24–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group Obstetrics and Maternal-Fetal Biology Subcommittee.

Date: July 12, 2010.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Legacy Hotel and Meeting Center, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Peter Zelazowski, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child, Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6902, *PETER.ZELAZOWSKI@NIH.GOV.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 21, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15491 Filed 6–24–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 USC, as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Medications Development for Substance Related Disorders (R01).

Date: July 7–8, 2010.

Time: 9 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Jose F. Ruiz, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892. 301–451–3086. *ruizjf@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Medications Development for Cannabis-Related Disorders (R01).

Date: July 8, 2010.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Jose F. Ruiz, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892. 301–451–3086. *ruizjf@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, NIDA–K Conflicts SEP.

Date: July 13, 2010.

Time: 5:30 p.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Eliane Lazar-Wesley, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401. 301–451–4530. *elazarwe@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Deep Sequencing and Analysis of Pharmacogenomic Regions.

Date: July 14, 2010.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Minna Liang, PhD, Scientific Review Administrator, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892. 301–435–1432. *liangm@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 18, 2010.

Anna P. Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15490 Filed 6–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Clinical Neuroimmunology and Brain Tumors.

Date: July 7, 2010.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: Samuel C. Edwards, PhD, Chief, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892. (301) 435–1246. *edwardss@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Risk Prevention and Health Behavior.

Date: July 9, 2010.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Michael Micklin, PhD, Chief, RPHB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892. (301) 435–1258. *micklinm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Quick Trials on Imaging and Image-guided Intervention.

Date: July 12, 2010.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting.)

Contact Person: John Firrell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, MSC 7854, Bethesda, MD 20892. 301–435–2598. *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Neurotechnology Overflow.

Date: July 14, 2010.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: Robert C. Elliott, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892. 301–435–3009. *elliotro@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, NIH Director's ARRA Funded Pathfinder Award to Promote Diversity in the Scientific Workforce (RFA OD–10–013).

Date: July 15–16, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John Firrell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, MSC 7854, Bethesda, MD 20892. 301–435–2598. *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA Panel: CounterAct—Countermeasures Against Chemical Threats.

Date: July 15, 2010.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Jonathan K. Ivins, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040A, MSC 7806, Bethesda, MD 20892. (301) 594–1245. *ivinsj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Arthritis, Connective Tissue, and Skin (ACTS).

Date: July 15, 2010.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Aftab A. Ansari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892. 301–594–6376. *ansaria@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Molecular and Cellular Neuroscience.

Date: July 15, 2010.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: Carole L. Jelsema, PhD, Chief and Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7850, Bethesda, MD 20892. (301) 435–1248. *jelsemac@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Musculoskeletal Rehabilitation Applications.

Date: July 22, 2010.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: Aftab A. Ansari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892. 301–594–6376. *ansaria@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 21, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15486 Filed 6–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Sleep Disorders Research Advisory Board.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodation, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Sleep Disorders Research Advisory Board.

Date: August 27, 2010.

Time: 8:30 a.m. to 4 p.m.

Agenda: To discuss sleep research programs and sleep research strategic planning.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room E, Bethesda, MD 20892.

Contact Person: Michael J Twery, PhD, Director, National Center on Sleep Disorders Research, Division of Lung Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Suite 10038, Bethesda, MD 20892–7952. 301–435–0199. *twerym@nhlbi.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nhlbi.nih.gov/meetings/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 21, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15480 Filed 6–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Scientific Management Review Board.

The meeting will be open to the public, with attendance limited to space available. Registration is required since space is limited and will begin at 8 a.m. Please visit the conference Web site for information on meeting logistics and to register for the meeting *http://www.circlesolutions.com/ncs/ncsac/index.cfm.* Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Children's Study Advisory Committee.

Date: July 21, 2010.

Time: 9 a.m. to 5 p.m.

Agenda: The agenda will include an update on the current status of the Study, and discussions pertaining to real time analysis and environmental methodologies.

Place: National Institutes of Health. Natcher Building, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Jessica E. DiBari, MHS, Executive Secretary, National Children's Study, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 3A01, Bethesda, MD 20892, (301) 451–2135.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. For additional information about the Federal Advisory Committee meeting, please contact Circle Solutions at *ncs@circlesolutions.com.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 21, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15477 Filed 6–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel—Assays of Biological Specimens in Support of National Standards for Normal Fetal Growth.

Date: July 15, 2010.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892–9304, 301–435–6680, *skandasa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: *June 18, 2010.*

Anna P. Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–15479 Filed 6–24–10; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Tobacco Products Scientific Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Tobacco Products Scientific Advisory Committee. This meeting was announced in the **Federal Register** of May 19, 2010 (75 FR 28027). The amendment is being made to reflect a change in the *Agenda* and *Procedure* portions of the document. The *Agenda* portion is changed to cancel Topic 1 regarding dissolvable tobacco products. This portion of the meeting has been cancelled. The *Procedure* portion is changed to a 1-hour open public hearing from 10 a.m. to 11 a.m. on July 16, 2010. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Cristi Stark, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd, Rockville, MD 20850, 1–877–287–1373 (choose Option 4), e-mail: *TPSAC@fda.hhs.gov* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington DC area), code 8732110002. Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 19, 2010 (75 FR 28027), FDA announced that a meeting of the Tobacco Products Scientific Advisory Committee would be held on July 15 and 16, 2010. On page 28027, in the first column, the *Agenda* portion of the document is changed to read as follows:

Agenda: On July 15, 2010, the committee will: (1) Receive updates on upcoming committee business related to menthol, including Agency requests for information from industry on menthol cigarettes in order to prepare for the Tobacco Products Scientific Advisory Committee's required report to the Secretary of Health and Human Services regarding the impact of use of menthol in cigarettes on the public health and (2) hear and discuss industry presentations on menthol in cigarettes as they relate to the following five topics: Characterization of menthol, clinical effects of menthol, biomarkers of disease risk, marketing data, and population effects.

On page 28027, in the third column, the *Agenda* portion of the document is changed to read as follows:

Agenda: On July 16, 2010, the committee will continue discussion on topic 2.

On page 28028, in the first column, the *Procedure* portion of the document is changed to read as follows:

Procedure: Oral presentations from the public (excluding the tobacco industry) will be scheduled between approximately 10 a.m. and 11 a.m. on July 16, 2010.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: June 22, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–15554 Filed 6–23–10; 11:15 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2009–N–0276, FDA–2009–N–0277, FDA–2009–N–0278, and FDA–2009–N–0521]

Termination of Declarations Justifying Emergency Use Authorizations of Certain In Vitro Diagnostic Devices, Antiviral Drugs, and Personal Respiratory Protection Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing this notice, under the Federal Food, Drug, and Cosmetic Act (the act), of the termination of the declarations of emergency justifying Emergency Use Authorizations (EUAs) of certain in vitro diagnostic devices, personal respiratory protection devices, and antiviral products that were issued in response to the public health emergency involving 2009 H1N1 Influenza. Advance notice of the termination of the declarations was provided under the act.

DATES: The Authorizations are terminated as of June 23, 2010.

FOR FURTHER INFORMATION CONTACT: RADM Boris Lushniak, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 4140, Silver Spring, MD 20993, 301–796–8510.

SUPPLEMENTARY INFORMATION:

I. Background

On April 26, 2009, the then Acting Secretary of the Department of Health and Human Services (DHHS) determined, under section 564(b)(1)(C) of the act (21 U.S.C. 360bbb-3(b)(1)(C)) that a public health emergency exists involving Swine Influenza A (now known as 2009 H1N1 Influenza) that affects, or has significant potential to affect, national security. The determination was renewed four times: March 26, 2010, December 28, 2009, October 1, 2009, and July 24, 2009. On March 26, 2010, the Secretary of DHHS renewed the declarations justifying the authorization for the emergency use of certain in vitro diagnostic devices, antiviral drugs, and personal respiratory protection devices. For additional background information on the declarations, see the April 2, 2010, renewal notice (75 FR 16810).

For additional background information on the products authorized for emergency use in response to the public health emergency involving 2009 H1N1 Influenza, see the following **Federal Register** notices:

- For certain personal respiratory protection devices: 74 FR 38644, August 4, 2009;
- For certain antiviral drug products: 74 FR 38648, August 4, 2009; 75 FR 20430, April 19, 2010; 74 FR 56640, November 2, 2009; and 75 FR 20437, April 19, 2010; and
- For certain in vitro diagnostic devices: 74 FR 38636, August 4, 2009; 75 FR 20441, April 19, 2010; and 75 FR 35045, June 21, 2010.

II. Advance Notice of Termination

FDA is issuing this notice, under section 564(b)(4) of the act, of the termination of the declarations of emergency justifying EUAs of certain in vitro diagnostic devices, personal respiratory protection devices, and antiviral products that were issued in response to the public health emergency involving 2009 H1N1 Influenza. Under section 564(b)(3) of the act, the Commissioner of Food and Drugs provided advance notice of the termination of the declaration of emergency to the EUA requestor for each product authorized for emergency use in response to the public health emergency involving 2009 H1N1 Influenza. The June 21, 2010, letters notifying the EUA requestors of the termination of the declaration of emergency follow:

Thomas R. Frieden, MD, MPH
Director
Centers for Disease Control and Prevention
1600 Clifton Rd., MS D-14
Atlanta, GA 30333

Re: Termination of Declarations of Emergency Justifying Emergency
Use Authorization (EUA) of Certain Antiviral Drugs—Zanamivir, Oseltamivir Phosphate, and Peramivir

Dear Dr. Frieden:

This letter is to provide advance notice of the termination of:

(1) the declaration of emergency that was issued by the then Acting Secretary of the Department of Health and Human Services (HHS) Charles E. Johnson on April 26, 2009, pursuant to section 564(b)(1) of the Federal Food, Drug, and Cosmetic Act (the Act), 21 U.S.C. § 360bbb-3, justifying the authorization of the emergency use of certain products from the neuraminidase class of antivirals Oseltamivir Phosphate and Zanamivir; and

(2) the declaration of emergency that was issued by the Secretary of HHS on October 20, 2009, pursuant to section 564(b)(1) of the Act, 21 U.S.C. § 360bbb-3, justifying the authorization of the emergency use of the antiviral peramivir.

Both of the declarations described above will terminate when the Public Health Emergency determination for 2009 H1N1 influenza expires on June 23, 2010. Therefore, after June 23, 2010, the EUA authorizing the unapproved uses of zanamivir and oseltamivir phosphate and the use of the unapproved drug peramivir will no longer be in effect. For any patient who began a treatment course of peramivir prior to June 23, 2010, the authorization shall continue to be effective after June 23, 2010, to allow completion of that treatment course, to the extent the patient's attending physician finds continued treatment necessary. 21 U.S.C. § 360bbb-3(f)(2).

The advance notice of termination will be published in the Federal Register, pursuant to section 564(b)(4) of the Act, 21 U.S.C. § 360bbb-3(b)(4).

Sincerely,

Margaret A. Hamburg, M.D.
Commissioner of Food and Drugs

Thomas R. Frieden, MD, MPH
Director
Centers for Disease Control and Prevention
1600 Clifton Rd., MS D-14
Atlanta, GA 30333

Re: Termination of Declaration of Emergency Justifying the Authorization of Emergency
Use of Certain Personal Respiratory Protection Devices

Dear Dr. Frieden:

This letter is to provide advance notice of the termination of the declaration of emergency that was issued by the then Acting Secretary of the Department of Health and Human Services Charles E. Johnson on April 27, 2009, pursuant to section 564(b)(1) of the Federal Food, Drug, and Cosmetic Act (the Act), 21 U.S.C. § 360bbb-3, justifying the authorization of emergency use of certain Personal Respiratory Protection Devices. This declaration of emergency will terminate when the Public Health Emergency determination for 2009 H1N1 influenza expires on June 23, 2010.

Advance notice of termination will be published in the Federal Register, pursuant to section 564(b)(4) of the Act.

Sincerely,

Margaret A. Hamburg, M.D.
Commissioner of Food and Drugs

With regard to in vitro diagnostic devices, the following letter was sent to each of the listed EUA requestors with respect to the identified devices:

TABLE 1.

EUA Requestor Name and Address	In Vitro Diagnostic Device
Centers for Disease Control and Prevention 1600 Clifton Rd., MS D–14 Atlanta, GA 30333	Swine Influenza Virus Real-time RT-PCR Detection Panel

TABLE 1.—Continued

EUA Requestor Name and Address	In Vitro Diagnostic Device
Centers for Disease Control and Prevention 1600 Clifton Rd., MS D–14 Atlanta, GA 30333	CDC Human Influenza Virus Real-time RT-PCR Detection and Characterization Panel for Respiratory Specimens (NPS, NS, TS, NPS/TS, NA2) and Viral Culture
Cepheid 904 Caribbean Drive Sunnyvale, CA 94089	Cepheid Xpert Flu A Panel
Diagnostic Hybrids, Inc. 1055 East State St., Suite 100 Athens, OH 45701	Diagnostic Hybrids, Inc. D3 Ultra 2009 H1N1 Influenza A Virus ID Kit
DIATHERIX Laboratories, Inc. 601 Genome Way, Suite 4208 Huntsville, AL 35806	Diatherix H1N1-09 Influenza Test
DxNA, LLC 3879 S. River Road, Bldg. A St. George, UT 84790	GeneSTAT 2009 A/H1N1 Influenza Test
Epoch BioSciences 21720 23rd Drive S.E., Suite 150 Bothell, WA 98021	ELITech Molecular Diagnostics 2009-H1N1 Influenza A Virus Real RT-PCR test
Focus Diagnostics, Inc. 11331 Valley View Street Cypress, CA 90630	Focus Diagnostics Influenza A H1N1 (2009) Real-Time RT-PCR IVD device
Focus Diagnostics, Inc. 11331 Valley View Street Cypress, CA 90630	Focus Diagnostics Simplexa Influenza A H1N1 (2009)device
IntelligentMDx 19 Blackstone Street Cambridge, MA 02139	IMDx 2009 Influenza A H1N1 Real-Time RT-PCR Assay
IQuum, Inc. 700 Nickerson Road Marlborough, MA 01752	Liat Influenza A/2009 H1N1 Assay
Longhorn Vaccines and Diagnostics 3 Bethesda Metro Center, Suite 375 Bethesda, MD 20814	Longhorn Influenza A/H1N1-09 Prime RRT-PCR Assay
Prodesse Products Gen-Probe W229 N1870 Westwood Drive Waukesha, WI 53186	Prodesse ProFlu-ST Influenza A Subtyping Assay
QIAGEN 1201 Clopper Road Gaithersburg, MD 20878	*artus*® Inf. A H1N1 2009 LC RT-PCR Kit
Roche Diagnostics GmbH Roche Applied Science Nonnenwald 2 82377 Penzberg / Germany	Roche RealTime ready InfluenzaA/H1N1 Detection Set
TessArae, LLC 46090 Lake Center Plaza, Suite 304 Sterling, VA 20165	TessArray Resequencing Influenza A Microarray Detection Panel
United States Army Medical Material Development Activity 1430 Veterans Drive Ft. Detrick, MD 21702–9232	CDC Swine Influenza Virus Real-time rRT-PCR Detection Panel on JBAIDS
ViraCor Laboratories 1001 NW Technology Drive Lee's Summit, MO 64086	ViraCor 2009 H1N1 Influenza A Real-time RT-PCR Test

LETTER SENT TO EUA IN VITRO DIAGNOSTIC TEST RECIPIENTS:

Re: Termination of Declaration of Emergency Justifying Emergency Use Authorization (EUA) of Certain In Vitro Diagnostic Tests

Dear [Recipient]:

This letter is to provide advance notice of the termination of the above-referenced declaration of emergency that was issued by the then Acting Secretary of the Department of Health and Human Services Charles E. Johnson on April 26, 2009, pursuant to section 564(b)(1) of the Federal Food, Drug, and Cosmetic Act (the Act), 21 U.S.C. § 360bbb-3, justifying the EUAs for in vitro diagnostics for detection of 2009 H1N1 influenza virus. The declaration will terminate when the Public Health Emergency determination for 2009 H1N1 influenza expires on June 23, 2010. Therefore, after June 23, 2010, the in vitro diagnostic tests that were authorized by FDA for use by clinical laboratories to detect the 2009 H1N1 virus will no longer be authorized by FDA.

FDA recognizes that there remain a significant number of clinical laboratories that have purchased and are using authorized tests for detection of 2009 H1N1 virus and that these devices will remain in laboratory inventories, within their expiration dates, after the June 23, 2010 EUA termination date. After June 23, 2010, FDA intends to exercise enforcement discretion regarding such devices if they are already within clinical laboratory inventories on or before that date. FDA encourages manufacturers of the authorized 2009 H1N1 virus detection devices to work with FDA to submit the additional information that may be necessary to obtain FDA clearance or approval for their device. FDA is fully prepared and welcomes the opportunity to work with the manufacturer of each of the authorized in vitro diagnostic devices for detection of 2009 H1N1 virus to help facilitate the rapid efficient review of such tests.

Advance notice of termination will be published in the Federal Register, pursuant to section 564(b)(4) of the Act.

Sincerely,

Margaret A. Hamburg, M.D.
Commissioner of Food and Drugs

Dated: June 22, 2010.

David Dorsey,

Acting Deputy Commissioner for Policy, Planning and Budget.

[FR Doc. 2010–15448 Filed 6–22–10; 4:15 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5375–N–24]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: *Effective Date:* June 25, 2010.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988, court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: June 17, 2010.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. 2010–15090 Filed 6–24–10; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVW00000 L16100000.DP0000 LXSS015F0000 241A; 10–08807; MO#4500012011; TAS:14X1109]

Notice of Availability of the Draft Winnemucca District Resource Management Plan and Environmental Impact Statement, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Draft Resource Management Plan (RMP) and Draft Environmental Impact Statement (EIS) for the Winnemucca District and by this notice is announcing the opening of the comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft RMP/Draft EIS within 90 days following the date the Environmental Protection Agency publishes its notice of the Draft RMP/Draft EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the Winnemucca District Draft RMP/Draft EIS by any of the following methods:

- *Web site: http://www.blm.gov/nv/st/en/fo/wfo/blm_information/rmp*
- *E-mail: wdrmp@blm.gov.*
- *Fax:* (775) 623–1503
- *Mail:* Bureau of Land Management, Winnemucca District Draft RMP/EIS, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445.

Copies of the Winnemucca District Draft RMP/Draft EIS are available in the Winnemucca District Office at the above address or on the following website: *http://www.blm.gov/nv/st/en/fo/wfo/blm_information/rmp*

FOR FURTHER INFORMATION CONTACT: For further information contact Bob Edwards, RMP Team Lead, telephone (775) 623–1597; address 5100 E. Winnemucca Boulevard, Winnemucca, Nevada 89445, e-mail: *Robert_Edwards@nv.blm.gov.*

SUPPLEMENTARY INFORMATION: The Winnemucca District Draft RMP/Draft EIS was developed through a collaborative planning process. The Winnemucca RMP decision area encompasses approximately 7.2 million acres of public land administered by the BLM Winnemucca District, which are located in Humboldt, Pershing, Lyon, Churchill and Washoe counties, Nevada. It does not include private lands, State lands, Indian reservations, Federal lands not administered by BLM or lands addressed in the Black Rock Desert-High Rock Canyon, Emigrant Trails National Conservation Area RMP EIS (July 2004).

The Draft RMP/Draft EIS includes strategies for protecting and preserving the biological, wildlife, cultural, recreational, geological, educational, scientific, and scenic values while managing for sustainable development, energy and mineral development, and livestock grazing. Current guidance is provided by the Sonoma-Gerlach and Paradise-Denio Management Framework Plans (1982) and land use plan amendments (1999). The key issues raised during the planning process include landscape health, recreation, access, transportation routes, wilderness characteristics, and visual resources. Five alternatives, including a no-action alternative, were developed in response to these key issues. The alternatives also address air resources, biological resources, cultural resources, fire management, grazing management, hazardous materials, lands and realty, mineral and energy resources, Native American issues, social and economic conditions, soils, and water resources. The no action alternative, Alternative A, represents the current management of public lands within the Winnemucca District. The four action alternatives, Alternatives B through D, present reasonable, yet varying, management scenarios. The alternatives range from emphasizing maintenance of the naturalness of the Winnemucca District decision area, by restricting some human uses, to emphasizing continued human uses. Comments collected during the scoping process in 2005, during which four public open houses were held, were instrumental in determining the issues to be addressed. Through the Draft RMP/Draft EIS, the BLM is seeking public input on the developed alternatives that address these issues. The Winnemucca District's preferred alternative is Alternative D which focuses on a balance between managing public lands for economic and recreational growth while protecting valuable resources. Alternative D also incorporates sustainable development principles and techniques to achieve this balance.

The Osgood Mountains Milkvetch Area of Critical Environmental Concern (ACEC) is the only special designation area currently within the Winnemucca District. The use limitations in this area include: closure to mineral material disposal (salable minerals); no surface occupancy and stipulations to accompany fluid and solid mineral leasing; locatable minerals withdrawn from entry; and Visual Resource Management (VRM) Class II. Alternative B mirrors the Alternative A management of the ACEC. Alternative C proposes to designate three new ACECs: Pine Forest, Raised Bog and Stillwater Range. Management of all four ACECs would be as follows: closed to mineral material disposal (salable minerals), fluid mineral and solid mineral leasing; locatable minerals withdrawn from entry; priority fire suppression areas; and VRM Class II. Alternative D is almost identical to the proposal in Alternative C and in addition the proposed ACECs would be closed to new communication sites. The proposed Pine Forest, Raised Bog, and Stillwater Range ACECs would be open for acquiring the rights to locatable minerals with special mitigation on operations. Alternative D proposes to manage the Osgood Mountains Milkvetch ACEC as a VRM Class III.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment–including your personal identifying information–may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Ron Wenker,

State Director, Nevada.

Authority: 40 CFR 1506.6, 1506.10, and 43 CFR 1610.2

[FR Doc. 2010–15326 Filed 6–24–10; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–10–L19100000–BJ0000–LRCS44020800]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, thirty (30) days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Program Manager, Bureau of Reclamation, Great Plains Region, Montana Area Office, Billings, Montana, and was necessary to determine the boundaries of Federal Interest lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 37 N., R. 14 E.

The plat, in 2 sheets, representing the dependent resurvey of portions of the Ninth Standard Parallel North, through Range 14 West, the east boundary, the subdivisional lines, the subdivision of certain sections, and certain rights-of-way of the United States Reclamation Service (U.S.R.S.) Reserve, St. Mary Storage Unit (Canal) through sections 34 and 35, Township 37 North, Range 14 West, Principal Meridian, Montana, was accepted June 7, 2010.

We will place a copy of the plat, in 2 sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in 2 sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in 2 sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap 3.

Dated: June 8, 2010.

James D. Claflin,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2010–15481 Filed 6–24–10; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2010–N085; 40136–1265–0000–S3]

Holla Bend National Wildlife Refuge, Pope and Yell Counties, AR

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: Final comprehensive conservation plan and finding of no significant impact.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of our final comprehensive conservation plan (CCP) and finding of no significant impact (FONSI) for Holla Bend National Wildlife Refuge (NWR). In the final CCP, we describe how we will manage this refuge for the next 15 years.

ADDRESSES: You may obtain a copy of the CCP by writing to: Mr. Durwin Carter, Refuge Manager, Holla Bend NWR, 10448 Holla Bend Road, Dardanelle, AR 72834. The CCP may also be accessed and downloaded from the Service's Web site: *http://southeast.fws.gov/planning* under "Final Documents."

FOR FURTHER INFORMATION CONTACT: Mr. Mike Dawson, Refuge Planner, Jackson, MS; telephone: 601/965–4903, Ext. 20; fax: 601/965–4010; e-mail: *mike_dawson@fws.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for Holla Bend NWR. We started this process through a notice in the **Federal Register** on May 17, 2007 (72 FR 27837).

Holla Bend NWR is about 6 miles southeast of the city of Dardanelle in west-central Arkansas. The refuge is situated on a meander in the Arkansas River (*i.e.,* Holla Bend) that was cut off when the U.S. Army Corps of Engineers (Corps) straightened the channel in 1954. When the work was completed, the Corps transferred the 4,068-acre Holla Bend cutoff site to the Service and Holla Bend NWR was formally established in 1957. We have acquired additional lands in the intervening years, and the fee title boundary presently includes 6,616 acres. We also manage 441 acres of a Migratory Bird Closure Zone outside of the fee title boundary, bringing the total managed area to 7,057 acres. The boundaries of the refuge are roughly defined by the main channel of the Arkansas River and the cutoff meander channel.

The principal focus of the refuge is on providing a wintering area for ducks and geese that use the Arkansas River corridor as they migrate along the Mississippi and Central Flyways. The number of waterfowl on the refuge in any given year varies, depending on water levels and weather conditions further along the flyways. However, it is not uncommon for the refuge to host up to 100,000 ducks and geese at once during the winter months. Mallards are the most abundant, but at least 18 species of ducks and 4 species of geese have been observed on the refuge.

More than 40,000 people visited the refuge in 2009. Almost half of these visitors came to the refuge to watch wildlife; bald eagles are an important draw. The refuge also provides opportunities for wildlife observation, wildlife photography, and environmental education and interpretation. There are opportunities for hunting and fishing as well, although these activities are limited to ensure that they are compatible with refuge purposes.

We announce our decision and the availability of the final CCP and FONSI for Holla Bend NWR in accordance with the National Environmental Policy Act (NEPA) [40 CFR 1506.6(b)] requirements. We completed a thorough analysis of impacts on the human environment, which we included in the draft comprehensive conservation plan and environmental assessment (Draft CCP/EA). The CCP will guide us in managing and administering Holla Bend NWR for the next 15 years. Alternative D is the foundation for the CCP.

The compatibility determinations for hunting, fishing, wildlife observation and photography, environmental education and interpretation, all-terrain vehicle use, cooperative farming, commercial fishing, haying, research studies, and trapping are available in the CCP.

Background

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Administration Act.

Comments

Approximately 100 copies of the Draft CCP/EA were made available for a 30-day public review period as announced in the **Federal Register** on January 8, 2010 (75 FR 1073). Five public comments were received. The Draft CCP/EA identified and evaluated four alternatives for managing the refuge.

Selected Alternative

After considering the comments we received, we have selected Alternative D for implementation. This alternative is judged to be the most effective management action for meeting the purposes of the refuge by optimizing habitat management and visitor services.

Refuge operations will be improved by balancing enhanced habitat and fish and wildlife population management and enhanced wildlife-dependent public use. This adaptive management alternative is basically concurrent implementation of selected enhancements from alternatives B (*Enhanced Management of Habitat and Fish and Wildlife Populations*) and C (*Enhanced Management for Wildlife-Dependent Public Use*), focusing on specific enhancements for which inherent linkages will result in greater benefits to the refuge and surrounding area than simple addition of the benefits of each enhancement implemented separately. For example, the baseline biological information developed under Alternative B will be useful in identifying opportunities to improve visitor experiences, and the increased volunteer support management developed under Alternative C will lead to increased efficiencies in collecting data on biological resources and responses (*e.g.,* nuisance and invasive species occurrence, deer herd status, and evaluation of habitat management efforts) identified in Alternative B.

Habitat management will include converting 100 acres from agricultural production to grassland and scrub/shrub habitat; cooperative farming will continue on 1,200 acres. To the extent possible, crops will be converted to preferred waterfowl foods. We will monitor acreage of invasive plants and develop a strategy to eliminate non-

native plants. Enhancements in the management of moist-soil habitat will include developing complete water control capability on all moist-soil unit acreage and use of periodic disturbance to set back succession. Further, we will pursue cooperative projects to improve habitat quality on 500 acres of open water. Waterfowl usage and shorebird response to habitat management also will be monitored.

Wildlife-dependent recreation activities will be the same as under Alternative A (*Current Management*).

The two significant enhancements in the public use program will be development of an environmental education center and the addition of a park ranger (visitor services) position. These enhancements will greatly increase our capability and opportunity to conduct environmental education and interpretation programs, and to better utilize qualified volunteers in support of Holla Bend NWR's mission and objectives. One function of the park ranger will be to develop a plan for recruiting and effectively managing volunteer support.

This alternative also will include the addition of an ADA-compliant fishing pier at Lodge Lake's bank fishing area, development of a bird observation trail north of the refuge office, improvements to the Lodge Lake Trail and the loop to the Levee Trail, and selective vegetation management along refuge roads to improve wildlife viewing opportunities. Information kiosks, directional signs, parking lots, and other visitor use facilities also will be improved to the extent feasible. This will include determining the maximum number of archery hunters we can support and evaluating the feasibility of adding a dove hunt season.

Under this alternative, we will pursue opportunities that arise to purchase or exchange priority tracts within the refuge acquisition boundary, which includes 1,703 acres in private ownership distributed in numerous small tracts around the perimeter of the refuge. We will maintain the refuge as resources allow.

The staff will be made up of the following: refuge manager, deputy refuge manager, heavy equipment operator, office assistant, biologist, biological science technician, park ranger (public use), park ranger (law enforcement), refuge operations specialist, and heavy equipment mechanic.

Authority

This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: April 22, 2010.

Mark J. Musaus,

Acting Regional Director.

[FR Doc. 2010–15434 Filed 6–24–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L12200000.NO0000 .LLCAD00000]

Notice of Interim Final Supplementary Rules for Public Lands Managed by the California Desert District

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Interim Final Supplementary Rules.

SUMMARY: The Bureau of Land Management (BLM) California Desert District (CDD) Office and the five Field Offices within the CDD, are issuing interim final supplementary rules for public lands administered by the BLM. The BLM has determined these interim final supplementary rules are necessary to enhance the safety of visitors, protect public health, protect natural resources, and improve recreation experiences and opportunities.

DATES: The interim final supplementary rules are effective June 25, 2010 and remain in effect until modified or rescinded by the publication of the final supplementary rules. We invite comments until July 26, 2010. Comments postmarked or received in person after this date may not be considered in the development of the final supplementary rules.

ADDRESSES: You may submit comments by the following methods: Mail or hand-delivery: Lynnette Elser, Bureau of Land Management, California Desert District Office, 22835 Calle San Juan De Los Lagos, Moreno Valley, California 92553.

FOR FURTHER INFORMATION CONTACT: Lynnette Elser, Planning and Environmental Coordinator, BLM, California Desert District Office, 22835 Calle San Juan De Los Lagos, Moreno Valley, California 92553, phone: (951) 697–5233, or e-mail: *lelser@ca.blm.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

You may mail or hand-deliver comments to Lynnette Elser, Planning and Environmental Coordinator, BLM, California Desert District Office, 22835 Calle San Juan De Los Lagos, Moreno Valley, California 92553. Written comments on the interim final supplementary rules should be specific, confined to issues pertinent to the interim final supplementary rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the rule that the comment is addressing. The BLM is not obligated to consider or include in the Administrative Record for the interim final supplementary rule: (a) comments that the BLM receives after the close of the comment period (*See* **DATES**), unless they are postmarked or electronically dated before the deadline, or (b) comments delivered to an address other than those listed above (See **ADDRESSES**).

Comments, including names, street addresses, and other contact information of respondents, will be available for public review at the BLM's CDD Office, 22835 Calle San Juan De Los Lagos, Moreno Valley, California 92553, during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except Federal holidays. Before including your address, telephone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

Visitors to the CDD encounter inconsistent rules regarding appropriate behavior in recreational areas. This inconsistency hampers the BLM's ability to provide a safe family-orientated recreational experience for the visitors. The BLM is establishing these rules to provide a consistent set of rules for the BLM managed land within the CDD.

The BLM is establishing these interim final supplementary rules under the authority of 43 CFR 8365.1–6, which allows the BLM State Directors to establish such rules for the protection of persons, property, and public lands and resources.

The BLM finds good cause to publish these supplementary rules on an interim basis because of immediate public safety and resource protection needs within the management area. These supplementary rules will serve as an enforcement tool in minimizing resource impacts and enhancing visitor safety. An estimated 5 million visitors use these BLM administered lands, encompassing more than 11 million acres, each year for a large variety of

recreational and other activities. The BLM is responsible for providing recreational opportunities on public lands. These interim final supplementary rules will prohibit acts, such as riding in truck beds, for safety reasons and create resource protection rules such as regulating camp fires, trash, and campsite closures. These interim final supplementary rules will provide consistency for public lands managed by the five Field Offices in the CDD. Therefore, the immediate implementation of these supplementary rules is required.

These rules do not propose or implement any land use limitations or restrictions as described in the Multiple Use Classification Guidelines of the California Desert Conservation Area Plan other than those included within the BLM's decisions associated with the CDCA Plan, as amended, and associated environmental impact statements and environmental assessments (EA), or allowed under existing law or regulation.

The CDD is located in southern California and includes all BLM managed land in Imperial, Inyo, Kern, Riverside, Los Angeles, San Bernardino, and San Diego Counties, California. A map of the area can be obtained by contacting the CDD office (see **ADDRESSES**) or by accessing the following Web site: *http://www.ca.blm.gov*. The supplementary rules will be available for inspection in the BLM's CDD Office in Moreno Valley, the CDD's five Field Offices: Ridgecrest, Barstow, Palm Springs-South Coast, Needles and El Centro Field Offices, and on kiosks throughout the CDD. These rules will be published in a newspaper of general circulation in the affected vicinity at the same time they are published in the **Federal Register**.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. They will not have an effect of $100 million or more on the economy. They do not affect commercial activity. They will not adversely affect, in a material way, the economy, productivity, competition, jobs, environment, public health or safety, or State, local, or tribal governments or communities. They will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. They do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. These rules merely contain rules of conduct for public use of public land and provide for consistency within the CDD.

Clarity of the Interim Final Supplementary Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make these supplementary rules easier to understand, including answers to questions such as the following:

(1) Are the requirements in the supplementary rules clearly stated?

(2) Do the supplementary rules contain technical language or jargon that interferes with their clarity?

(3) Does the format of the supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?

(4) Would the supplementary rules be easier to understand if they were divided into more (but shorter) sections?

(5) Is the description of the supplementary rules in the **SUPPLMENTARY INFORMATION** section of this preamble helpful in understanding the interim final supplementary rules? How could this description be more helpful in making the interim final supplementary rules easier to understand?

Please send any comments you have on the clarity of the supplementary rules to the address specified in the **ADDRESSES** section.

National Environmental Policy Act (NEPA)

The BLM has prepared an EA (CA–670–10–38) and has determined that the rules would not constitute a major Federal action significantly affecting the quality of the human environment under Section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). The EA was posted on the CDD Web site and was available for a 30-day public comment period from October 20, 2009 through November 20, 2009. A finding of no significant impact was signed February 1, 2010 and a decision record was signed February 1, 2010. The BLM invites the public to comment on the EA and Finding of No Significant Impact in accordance with the Public Comment.

These supplementary rules merely establish rules of conduct for the lands managed by the BLM CDD and its five Field Offices. These rules are designed to protect the environment and public health and safety.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These rules merely establish rules of conduct for public recreational use of specific public lands. Therefore, the BLM has determined under the RFA that these rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These interim final supplementary rules do not constitute a "major rule" as defined at 5 U.S.C. 804(2). These rules merely establish rules of conduct for recreational use of certain public lands and do not affect commercial or business activities of any kind.

Unfunded Mandates Reform Act

These supplementary rules do not impose an unfunded mandate on State, local or tribal governments or the private sector of more than $100 million per year; nor do these supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. These supplementary rules have no effect on State, local, or tribal governments and do not impose any requirements on any of these entities. Therefore, the BLM has determined that a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

These supplementary rules do not represent a government action capable of interfering with constitutionally protected property rights. The supplementary rules do not address property rights in any form, and do not cause the impairment of one's property rights. Therefore, the BLM has determined that these interim final supplementary rules would not cause a "taking" of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The supplementary rules will not have a substantial direct effect on the

States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. These supplementary rules do not conflict with any California State law or regulation. Therefore, in accordance with Executive Order 13132, the BLM has determined that these supplementary rules do not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM California State Office has determined that these supplementary rules would not unduly burden the judicial system and that they meet requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these supplementary rules do not include policies that have tribal implications. The supplementary rules do not affect Indian resource, religious, or property rights.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These supplementary rules do not comprise a significant energy action. The rules will not have an adverse effect on energy supply, production, or consumption and have no connection with energy policy.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that the supplementary rules will not impede facilitating cooperative conservation; will take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; properly accommodate local participation in the Federal decision-making process; and provide that the programs, projects, and activities are consistent with protecting public health and safety. These rules merely establish rules of conduct for recreational use of certain public lands.

Paperwork Reduction Act

These supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Information Quality Act

In developing these supplementary rules, the BLM did not conduct or use a study, experiment or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106–554).

Author

The principal author of these interim final supplementary rules is Lynnette Elser, Planning and Environmental Coordinator, BLM California Desert District.

Supplementary Rules for Lands Managed by the BLM California Desert District Office

For the reasons stated in the Preamble and under the authority of 43 CFR 8365.1–6, the California State Director, Bureau of Land Management, issues supplementary rules for public lands managed by the California Desert District (CDD), to read as follows:

Section 1—Definitions

BLM California Desert District means public land, managed by the BLM, totaling over 11 million acres, primarily in the southern and eastern portions of California. The California Desert District, under the authority of the District Manager, provides coordination and oversight to the five field offices of the California Desert District. The California Desert District office is located in Moreno Valley, California. This includes all of the land managed by the BLM Ridgecrest Field Office, the BLM Barstow Field Office, the BLM Palm Springs-South Coast Field Office, the BLM Needles Field Office, and the BLM El Centro Field Office. A map of this land is available at the CDD office.

Camp means day or overnight use of a tent, trailer, motor coach, fifth wheel, camper, or similar vehicle or structure.

Developed Sites and Areas means sites and areas that contain structures or capital improvements primarily used by the public for recreation purposes. Such sites or areas may include such features as: Delineated spaces for parking, camping or boat launching; sanitary facilities; potable water; grills or fire rings; tables; or controlled access. This definition is consistent with 43 CFR part 8360.

Off Road Vehicle (ORV) means ORV as defined by 43 CFR 8340.0–5.

Public Nudity means nudity in a place where a person may be observed by another person.

Nudity means nudity as defined by 14 California Code of Regulations Section 4322.

Special Recreation Permit means a permit issued under the authority of 43 CFR 8372.1.

Section 2—Supplementary Rules

The following rules apply on public lands administered by the BLM California Desert District unless explicitly authorized by a permit or other authorization document issued by the BLM:

1. Public nudity is prohibited at all developed sites and areas and all ORV open areas.
2. It is prohibited for a person to ride in or transport another person in or on a portion of an ORV or trailer that is not designed or intended for the transportation of passengers.
3. It is prohibited to use as firewood, or have in their possession, any firewood materials containing nails, screws, or other metal hardware, including, but not limited to, wood pallets and/or construction debris.
4. Possession of glass beverage containers is prohibited in all developed sites and areas and all ORV open areas.
5. It is prohibited to place into the ground any non-flexible object, such as, but not limited to, metal or wood stakes, poles, or pipes, with the exception of small tent or awning stakes, at all developed sites and areas and all ORV open areas.
6. It is prohibited to camp within the areas commonly known as Competition Hill Corridor and Competition Hill located within the Dumont Dunes ORV Area, as shown in the map at the entrance kiosk.
7. It is prohibited to reserve or save a camping space for another person at all developed sites and areas and all ORV open areas.
8. All persons must keep their sites free of trash and litter during the period of occupancy.

Employees and agents of the BLM are exempt from these rules during the performance of specific official duties as authorized by the CDD Manager, or the Ridgecrest, Barstow, Needles, Palm Springs-South Coast or El Centro Field Managers.

Section 3—Penalties

On public lands under Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a); 43 CFR 8360.0–7; 43 CFR 2932.57(b)), any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than

$1,000 or imprisoned for no more than 12 months, or both.

Such violations may also be subject to the enhanced fines provided for by 18 U.S.C. 3571. Those who violate these rules may also be subject to civil action for unauthorized use of the public lands, violations of special recreation permit terms, conditions, or stipulations, or for uses beyond those allowed by the permit under 43 CFR 2932.57(b)(2).

James Wesley Abbott,

Acting State Director.

[FR Doc. 2010–15437 Filed 6–24–10; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before May 29, 2010. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments are also being accepted on the following properties being considered for removal pursuant to 36 CFR 60.15. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by July 12, 2010.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Lisa Deline,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

ARKANSAS

Crittenden County

West Memphis City Hall, 100 Court St, West Memphis, 10000444

Jefferson County

Antioch Missionary Baptist Church Cemetery, 500 N. McKinney Rd, Sherrill, 10000437

COLORADO

Denver County

Bennett-Field House, 740 Clarkson St, Denver, 10000435

Park County

Shawnee, 56016–56114 Frontage Rd; 55919–56278 Hwy 285; 31–36 W. Shawnee Rd; 54–152 Waterworks Rd, Shawnee, 10000434

FLORIDA

Clay County

Holly Cottage, 6935 Old Church Rd, Green Cove Springs, 10000442

KANSAS

Brown County

Bierer, Samuel, House, 410 N 7th St, Hiawatha, 10000450

Chase County

Shaft, William C. & Jane, House, 1682 FP Rd, Cedar Point, 10000449

Dickinson County

J.S. Hollinger Farmstead Agriculture-Related Resources of Kansas) 2250 2100 Ave, Chapman, 10000448

Gove County

Beamer Barn (Agriculture-Related Resources of Kansas) 2931 CR 18, Oakley, 10000452

McPherson County

Hjerpe Grocery, 110 & 112 N Main, Lindsborg, 10000447

Republic County

Stevenson, S.T., House, 2012 N St, Belleville, 10000451

MISSISSIPPI

Attala County

Brett, George Washington, House, 3021 Attala Rd 3220, West, 10000440

Hancock County

Old Bay St. Louis Historic District, Roughly bounded by Beach Blvd, Third St on the E; Breath Ln and Hwy 90 on the N; Seminary Dr, St. Francis St, and, Bat St. Louis, 10000441

Hinds County

George Street Grocery, 416 George St, Jackson, 10000438

Leflore County

Greyhound Lines Station, 325 Main St, Greenwood, 10000439

MISSOURI

Greene County

Springfield Grocer Company Warehouse, 323 N. Patton Ave, Springfield, 10000462

Jackson County

Montgomery Ward and Comapny General Merchandise Warehouse (Railroad Related Historic Commercial and Industrial Resources in Kansas City, Missouri MPS) 819 E 19th St, Kansas City, 10000461

St. Louis County

Carney—Keightley House, 930 Hawkins Rd, Fenton, 10000460

NEVADA

Clark County

Gypsum Cave, 6 mi E of Las Vegas, Las Vegas Field Office BLM, Las Vegas, 10000443

OHIO

Auglaize County

Wintzer, Charles, Building, 202 Auglaize St W, Wapakoneta, 10000455

Franklin County

East North Broadway Historic District, E. N Broadway roughly between Broadway Pl and N Broadway Ln, Columbus, 10000454

Lorain County

Avon Isle, 37080 Detroit Rd, Avon, 10000456

Richland County

Bellville Cemetery Chapel, Bellville Cemetery, SR 97, Bellville, 10000457

PUERTO RICO

Camuy Municipality

Ernesto Memorial Chapel, Intersection SRs 486 and 488, Abra Honda Ward, Camuy, 10000453

VIRGINIA

Gloucester County

Hockley, 6640 Ware Neck Rd, Gloucester, 10000446

Norfolk Independent city

St. Peter's Episcopal Church, 1625 Brown Ave, Norfolk, 10000445

Scott County

Dungannon Depot, 3rd Ave (SR 65), Dungannon, 10000459

WISCONSIN

Columbia County

Sharrow, Frances Kurth, House, 841 Park Ave, Columbus, 10000436

Milwaukee County

Honey Creek Parkway (Milwaukee County Parkway System) Located between STH 181 at I 94 and N 72nd st, Wautwatosa, 10000458

[FR Doc. 2010–15396 Filed 6–24–10; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–840–1610–DR]

Notice of Availability of Record of Decision for the Canyons of the Ancients National Monument Resource Management Plan/Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD)/Approved Resource Management Plan (RMP) for the Canyons of the Ancients National Monument located in Montezuma and Dolores counties in southwest Colorado. The Colorado State Director signed the ROD on June 14, 2010, which constitutes the final decision of the BLM and makes the Approved RMP effective immediately.

ADDRESSES: Copies of the ROD/Approved RMP are available upon request from the Field Manager, Anasazi Heritage Center, Bureau of Land Management, 27501 Highway 184, Dolores, Colorado 81323. Copies of the ROD/Approved RMP are available for public inspection at:

- Anasazi Heritage Center, 27501 Highway 184, Dolores, Colorado 81323
- Dolores Public Lands Center, 29211 Highway 184, Dolores, Colorado 81323
- San Juan Public Lands Center, 15 Burnett Court, Durango, Colorado 81301
- Dolores Public Library, 420 Railroad Ave., Dolores, Colorado 81323
- Cortez Public Library, 202 N. Park, Cortez, Colorado 81321
- Mancos Public Library, 111 N. Main, Mancos, Colorado 81328
- Dolores County Extension Office, 409 N. Main, Dove Creek, Colorado 81324
- Durango Public Library, 1188 E. 2nd Ave., Durango, Colorado 81301

Interested persons may also review the ROD/Approved RMP at the following Web site: *http://www.blm.gov/rmp/canm*.

FOR FURTHER INFORMATION CONTACT: Heather Musclow, Monument Planner, Canyons of the Ancients National Monument, 27501 Highway 184, Dolores, Colorado 81323, Phone: (970) 882–5632.

SUPPLEMENTARY INFORMATION: The planning effort for the Canyons of the Ancients National Monument officially began in April 2002 with an extended public scoping period. Since then the BLM has maintained public interest and input through meetings and workshops, open houses, field trips, presentations, newsletters, public notices and announcements, and a planning Web site. In addition, an 11-member Monument Advisory Committee was established in June 2003, and continues today as a Monument Sub-Group of the Southwest Resource Advisory Council, to provide recommendations on management of the Monument. The Plan is a result of a collaborative process that involved local, state, Federal and tribal interests. The plan provides a framework to guide subsequent management decisions on approximately 170,730 acres managed by the BLM. Within the Monument boundary, there are approximately 400 acres of National Park Service lands (Hovenweep National Monument) and 12,200 acres of private inholdings. Until the signing of the ROD, the Canyons of the Ancients National Monument was being managed under the BLM 1985 San Juan/San Miguel RMP and the Interim Guidance provided after the National Monument was established. The current Approved RMP now provides the management direction for the National Monument. The Monument was established to protect nationally and internationally significant cultural and natural resources on a landscape scale, and is a component of the BLM's National Landscape Conservation System. The Plan balances this primary focus with ongoing multiple-uses including fluid mineral extraction, livestock grazing, recreation use, and transportation needs. The Proposed RMP/Final Environmental Impact Statement (EIS) was published in July 2009, and identified a proposed plan which has been carried forward in the ROD. Fourteen protests were received on the Proposed RMP/Final EIS. No inconsistencies were identified with state plans during the Governor's consistency review of the Proposed RMP/Final EIS. The Montezuma County Comprehensive Plan, however, "places the highest priority on the continuation of traditional and historic uses such as grazing, timber harvesting, mining, and energy development" (Pg. 12–2, No 4). No changes to the proposed plan occurred as a result of these reviews. Minor clarifications were made in preparing the Approved RMP and are highlighted in the ROD. The decisions identifying routes of travel within designated areas are implementation decisions and are appealable under 43 CFR Part 4. These decisions are contained on Map 5 of the Approved RMP. Any party adversely affected by the proposed route identifications may appeal within 30 days of publication of this Notice of Availability pursuant to 43 CFR part 4, subpart E. The appeal should state the specific route(s), as identified on Map 5 of the Approved RMP, on which the decision is being appealed. The appeal must be filed with the Monument Manager at the above listed address. Please consult the appropriate regulations (43 CFR part 4, subpart E) for further appeal requirements.

Authority: 40 CFR 1506.6.

Helen M. Hankins,

State Director.

[FR Doc. 2010–15363 Filed 6–24–10; 8:45 am]

BILLING CODE 4310–JB–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–723]

In the Matter of Certain Inkjet Ink Cartridges With Printheads and Components Thereof; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 25, 2010, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Hewlett-Packard Company of Palo Alto, California and Hewlett-Packard Development Company, L.P. of Houston, Texas. A letter supplementing the complaint was filed on June 16, 2010. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain inkjet ink cartridges with printheads and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 6,234,598 ("the '598 patent"); 6,309,053 ("the '053 patent"); 6,398,347 ("the '347 patent"); 6,412,917 ("the '917 patent"); 6,481,817 ("the '817 patent"); and 6,402,279 ("the '279 patent"). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Rett Snotherly, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2599.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in § 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2010).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on June 18, 2010, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain inkjet ink cartridges with printheads or components thereof that infringe one or more of claims 1–10 of the '598 patent; claims 1–6 and 8–17 of the '053 patent; claims 1–6 and 8–12 of the '347 patent; claims 1–21 of the '917 patent; claims 1–15 of the '817 patent; and claims 9–16 of the '279 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Hewlett-Packard Company, 3000 Hanover Street, Palo Alto, CA 94304.

Hewlett-Parkard Development Company, L.P., 11455 Compaq Center Drive West, Houston, TX 77070.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

MicroJet Technology Co., Ltd., 1F, No. 28, R&D 2nd Rd., Science-Based Industrial Park, Hsinchu City, Taiwan 30076, Asia Pacific Microsystems, Inc., No. 2, R&D Rd. 6, Science-Based Industrial Park, Hsinchu City, Taiwan 30076.

Mipo Technology Limited, Rm B 11/F Wong Tze Bldg., 71 Hoi Yuen Rd., Kwun Tong, Kowloon, Hong Kong.

Mipo Science & Technology Co., Ltd., Guangzhou, Rm. 3310–3313, Xin Yuan Building, No. 898 North Tianhe Road, Guangzhou, China.

Mextec d/b/a Mipo America Ltd., 3100 N.W. 72nd Ave. #106, Miami, FL 33122.

SinoTime Technologies, Inc. d/b/a All Colors, 3100 NW 72nd Ave. Ste. 106, Miami, FL 33122.

PTC Holdings Limited. Room B, 5/F, Mai Tak Industrial Building, 221 Wai Yip Street, Kwun Tong, Kowloon. Hong Kong.

(c) The Commission investigative attorney, party to this investigation, is Rett Snotherly, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with § 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 21, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–15413 Filed 6–24–10; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–NEW]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Emergency Notice of Information Collection Under Review: Prevent All Cigarette Trafficking (PACT) Act Registration Form.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by July 06, 2010. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Officer (202) 395–6466, Washington, DC 20503.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Crisanto Perez, Jr., Division Chief, Alcohol and Tobacco Diversion Division, Bureau of Alcohol, Tobacco, Firearms and Explosives, Room 7S–251, 99 New York Avenue, NE., Washington DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of

information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* New.

(2) *The title of the form/collection:* Prevent All Cigarette Trafficking (PACT) Act Registration Form.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: ATF F 5070.1. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or For-Profit. Other: None. The purpose of the information collection is to register delivery sellers of cigarettes and/or smokeless tobacco products with the Attorney General in order to continue to sell and/or advertise these tobacco products. Respondents will register the information on ATF F 5070.1.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 3,000 respondents will take 1 hour to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this information collection is 3,000 hours.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, 145 N Street, NE., Two Constitution Square, Suite 2E–502, Washington, DC 20530.

Dated: June 22, 2010.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–15451 Filed 6–24–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Wage and Hour Division

Proposed Extension of the Approval of Information Collection Requirements

AGENCY: Wage and Hour Division, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Wage and Hour Division is soliciting comments concerning its proposal to extend Office of Management and Budget (OMB) approval of the Information Collection: Report of Construction Contractor's Wage Rates. A copy of the proposed information collection request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before August 24, 2010.

ADDRESSES: You may submit comments identified by Control Number 1235–0015, by either one of the following methods:

E-mail: WHDPRAComments@dol.gov;

Mail, Hand Delivery, Courier: Regulatory Analysis Branch, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via e-mail or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Michel Smyth, Acting Director, Division of Interpretations and Regulatory Analysis, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice must be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TDD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background

The Davis-Bacon Act (40 U.S.C. 3141, *et seq.*) provides, in part, that every contract in excess of $2,000 to which the United States or the District of Columbia is a party for construction, alteration, and/or repair, which requires or involves the employment of mechanics and/or laborers, shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics that were determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village or other civil subdivision of the State where the work is to be performed. The Administrator of the Wage and Hour Division, through a delegation of authority, is responsible for issuing these wage determinations (WDs). Section 1.3 of Regulations 29 CFR Part 1, Procedures for Predetermination of Wage Rates, provides, in part, that for the purpose of making WDs, the Administrator will conduct a continuing program for obtaining and compiling wage rate information. Form WD–10 is used to determine locally prevailing wages under the Davis-Bacon and Related Acts. The wage data collection is a primary source of information and is essential to the determination of prevailing wages. This information collection is currently approved for use through January 31, 2011.

II. Review Focus

The DOL is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The DOL seeks approval for the extension of this information collection in order to ensure effective administration of various special employment programs.

Type of Review: Extension.

Agency: Wage and Hour Division.

Title: Report of Construction Contractor's Wage Rates.

OMB Numbers: 1235–0015.

Affected Public: Businesses or other for-profits, Federal Government.

Respondents: 22,000.

Total Annual Responses: 66,000.

Estimated Total Burden Hours: 22,000.

Estimated Time per Response: DOL estimates that respondents spend an average of approximately 20 minutes completing each response.

Frequency: On occasion.

Total Burden Costs: $0.

Total Burden Costs (operation/maintenance): $0.

Dated: June 21, 2010.

Michel Smyth,

Acting Director, Division of Interpretations and Regulatory Analysis.

[FR Doc. 2010–15401 Filed 6–24–10; 8:45 am]

BILLING CODE 4510–27–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (10–069)]

NASA Advisory Council; Science Committee; Planetary Science Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Science Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The Meeting will be held for the purpose of soliciting from the scientific community and other persons scientific and technical information relevant to program planning.

DATES: Monday, July 12, 2010, 8:30 a.m. to 5:30 p.m. EDT

ADDRESSES: NASA Headquarters, 300 E Street, SW., Room 3H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–4118, or *mnorris@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Update on Research and Analysis Program Working Group
—Update on Progress of Planetary Science Technology Review Panel
—Review of Government Performance and Results Act Submission

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide a copy of their passport, visa, or green card in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizenship can provide identifying information 3 working days in advance by contacting Marian Norris via e-mail at *mnorris@nasa.gov* or by telephone at (202) 358–4452.

Kathy Dakon,

Acting Director, Advisory Committee Management Division, National Aeronautics and Space Administration, and Space Administration.

[FR Doc. 2010–15464 Filed 6–24–10; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0158]

Draft Regulatory Guide, DG–4018, "Constraint on Releases of Airborne Radioactive Materials To the Environment for Licensees Other Than Power Reactors," Proposed Revision 1 of Regulatory Guide 4.20; Draft Regulatory Guide Issuance and Availability; Correction and Reopening of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft Regulatory Guide Notice of Issuance; Correction and Reopening of Comment Period.

SUMMARY: On April 20, 2010 (75 FR 20645), the U. S. Nuclear Regulatory Commission (NRC) published a notice of issuance and availability of Draft Regulatory Guide (DG)–4018, "Constraint on Releases of Airborne Radioactive Materials to the Environment for Licensees Other than Power Reactors." This **Federal Register** Notice stated that DG–4018 was a proposed Revision 2 of Regulatory Guide 4.2; however, DG–4018 is a proposed Revision 1 of Regulatory Guide 4.20. Due to the typographical error, this is being reissued.

DATES: The comment period closes on August 23, 2010.

FOR FURTHER INFORMATION CONTACT: Gregory C. Chapman, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 492–3106, or e-mail *Gregory.Chapman@nrc.gov.*

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2010–0158 in the subject line of your comments. Comments submitted in writing or in electronic form will be

posted on the NRC Web site and on the Federal rulemaking Web site *Regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2010–0158. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail comments to: Cindy K. Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Division of Administrative Services, Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RADB at (301) 492–3446.

You can access publicly available documents related to this notice using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area 01 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* The Draft Regulatory Guide, DG–4018, "Constraint on Releases of Airborne Radioactive Materials to the Environment for Licensees Other than Power Reactors," is available electronically under ADAMS Accession Number ML092600090.

SUPPLEMENTARY INFORMATION: On April 20, 2010 (75 FR 20645), the NRC published a notice of issuance and availability of DG–4018, "Constraint on Releases of Airborne Radioactive Materials to the Environment for Licensees Other than Power Reactors," and sought public comments. In the introduction section, second paragraph of page 20645, the regulatory guide and revision numbers read "Revision 2 of Regulatory Guide 4.2" but should have been "Revision 1 of Regulatory Guide 4.20." Due to this error, the public comment period is being reopened to give all interested parties an opportunity to comment on DG–4018. The comment submittal deadline is August 23, 2010.

Dated at Rockville, Maryland, this 17th day of June, 2010.

For the Nuclear Regulatory Commission.

Andrea D. Valentin,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2010–15440 Filed 6–24–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–011; NRC–2008–0252]

Southern Nuclear Operating Company et al.; Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Early Site Permit Issued to Southern Nuclear Operating Company et al., for Vogtle Electric Generating Plant ESP Site Located in Burke County, GA

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Terri Spicher, Project Manager, AP1000 Branch 1, Division of New Reactors Licensing, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. *Telephone:* (301) 415–1670; *fax number:* (301) 415–6323; *e-mail: Terri.Spicher@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Early Site Permit (ESP) No. ESP–004, issued to Southern Nuclear Operating Company (SNC) and several co-applicants (Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and the City of Dalton, Georgia), for the Vogtle Electric Generating Plant (VEGP) ESP site located in Burke County, Georgia. The proposed amendment would modify the Vogtle Electric Generating Plant ESP site safety analysis report (SSAR) to allow the use of Category 1 and 2 backfill obtained from onsite borrow areas not previously specifically identified in the VEGP ESP SSAR.

NRC has prepared an Environmental Assessment (EA) in support of this amendment in accordance with the requirements of 10 CFR Part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The NRC staff's review of the safety aspects of the amendment request will be documented in a separate safety evaluation report (SER); if warranted by the results of that evaluation, the amendment would be issued following the publication of this Notice.

II. EA Summary

The purpose of the proposed amendment is to authorize a change to the early site permit issued to SNC for the Vogtle Electric Generating Plant ESP site located in Burke County, Georgia. Specifically, the proposed amendment would modify the Vogtle Electric Generating Plant ESP SSAR to allow the use of Category 1 and 2 backfill obtained from onsite borrow areas that were not previously specified in the VEGP ESP SSAR.

By letter dated May 13, 2010, the applicant requested that the NRC consider issuing a limited scope approval (LSA) of a subset of onsite locations pending the NRC determination on the remainder of the borrow sources identified in the LAR. The borrow sources encompassed by this limited scope approval are in areas for which impacts were previously analyzed in the environmental review documented in NUREG 1872, Vol. 1, *Final Environmental Impact Statement for an Early Site Permit (ESP) at the Vogtle Electric Generating Plant Site* (ESP FEIS) (NRC 2008). Under 10 CFR 51.21, "Criteria for and Identification of Licensing and Regulatory Actions Requiring Environmental Assessments," the NRC prepared an EA that evaluated the impacts associated with the LSA and, based on that EA, reached a Finding of No Significant Impact. The LSA portion of the LAR was approved as Amendment No. 1 to ESP number ESP–004 on May 21, 2010. By letter dated May 24, 2010, the applicant clarified the scope of the remainder of its April 20 LAR by limiting the request to three other specific portions of the

VEGP site (*i.e.,* other than those already approved by Amendment 1) that would be used as additional onsite sources of Category 1 and Category 2 backfill. The environmental impacts from disturbance of these borrow locations were not previously evaluated in the ESP FEIS or in the LSA EA; accordingly, pursuant to 10 CFR 51.45, the May 24, 2010 letter also included an environmental report (ER) assessing the impacts associated with the remaining portion of the revised LAR.

The staff has prepared the EA in support of its review of the proposed license amendment. The EA evaluates the activities associated with acquiring backfill from those on-site areas specified in SNC's letter of May 24, 2010 and summarizes the radiological and nonradiological environmental impacts that may result from granting the amendment request. The staff has determined that granting the proposed amendment would not result in significant nonradiological impacts to land use, surface and groundwater resources, terrestrial and aquatic resources, threatened and endangered species, socioeconomic factors and environmental justice, cultural and historical resources, air quality, and nonradiological human health. In addition, the staff has determined that there are no significant radiological health impacts associated with the proposed action.

III. Finding of No Significant Impact

On the basis of the EA, the NRC has concluded that there are no significant environmental impacts from the proposed amendment and has determined not to prepare an environmental impact statement.

IV. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* The NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents, may be accessed from this site. The ADAMS accession numbers for the documents related to this notice are: The application dated April 20, 2010, as supplemented by letters dated April 23, 28, May 5, 10, 13, 20, and 24 2010 is available at ML101120089, ML101160531, ML101230337, ML101270283, ML101330141, ML101340649, ML101440385, and ML101470212 respectively. The EA and Finding of No Significant Impact evaluation is available at ML101670592. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room (PDR) Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

These documents may also be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), O 1 F21, One White Flint North, 11555 Rockville Pike Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland this 21st day of June, 2010.

For the Nuclear Regulatory Commission.

Terri Spicher,

Project Manager, AP1000 Branch1, Division of New Reactors Licensing, Office of New Reactors.

[FR Doc. 2010–15441 Filed 6–24–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0157]

Notice of Availability of Draft Environmental Impact Statement and Public Meetings for the General Electric-Hitachi Global Laser Enrichment, LLC Proposed Laser-Based Uranium Enrichment Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability of Draft Environmental Impact Statement.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a Draft Environmental Impact Statement (DEIS) for the proposed General Electric-Hitachi (GEH) Global Laser Enrichment (GLE) Uranium Enrichment Facility. On June 26, 2009, GEH submitted a license application that proposes the construction, operation, and decommissioning of a laser-based uranium enrichment facility located near Wilmington, North Carolina. GEH proposes to locate the facility on the existing General Electric Company (GE) site near Wilmington, North Carolina (Wilmington Site).

GEH submitted an Environmental Report (ER) in support of the proposed facility on January 30, 2009. On May 8, 2009, the NRC granted an exemption to authorize GEH to conduct certain preconstruction activities on the Wilmington Site. GEH submitted Supplement 1 to its ER on July 22, 2009, *GLE Environmental Report Supplement 1—Early Construction.* Supplement 1 distinguishes between the environmental impacts of preconstruction activities covered by the May 8, 2009, exemption and NRC-licensed construction activities, which cannot be undertaken unless a license is granted. On November 13, 2009, GLE submitted Supplement 2 to its ER, *GLE Environmental Report Supplement 2—Revised Roadway and Entrance.* Supplement 2 provides information describing the environmental impacts associated with developing an entrance and roadway into the Wilmington Site that are different from those proposed in the original ER.

This DEIS is being issued as part of the NRC's process to decide whether to issue a license to GEH, pursuant to *Title 10 of the U.S. Code of Federal Regulations* Parts 30, 40, and 70, to build and operate the proposed uranium enrichment facility. Specifically, GEH proposes to use laser-based technology to enrich the uranium-235 isotope found in natural uranium to concentrations up to 8 percent by weight. The enriched uranium would be used to manufacture nuclear fuel for commercial nuclear power reactors.

The NRC staff will hold two public meetings on July 22, 2010 to present an overview of the licensing process and the contents of the DEIS, and to accept oral and written public comments on the DEIS. The meetings will take place in Ballroom 5 of the Warwick Center at the University of North Carolina Wilmington. Prior to each public meeting, the NRC staff will be available to informally discuss the proposed GLE project and answer questions in an "open house" format. This "open house" format provides for one-on-one discussions with the NRC staff involved with the preparation of the DEIS. The DEIS meetings officially begin at 2:30 p.m. and 7:30 p.m. The meetings will include the following agenda items: (1) A brief presentation summarizing the NRC licensing review, (2) a presentation summarizing the contents of the DEIS, and (3) an opportunity for interested government agencies, organizations, and individuals to provide comments on the DEIS. Both public meetings will be transcribed by a court reporter.

Persons wishing to provide oral comments will be asked to register at the meeting entrance. Individual oral comments may have to be limited by the time available, depending upon the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meetings, the

need should be brought to the attention of Ms. Jennifer Davis no later than July 8, 2010, to provide NRC staff with adequate notice to determine whether the request can be accommodated. Please note that comments do not have to be provided at the public meetings and may be submitted at any time during the comment period, as described in the **DATES** section of this notice. Any interested party may submit comments on the DEIS for consideration by NRC staff. Comments may be submitted by any of the methods described in the **ADDRESSES** section of this notice.

DATES: The public comment period on the DEIS begins on the date of publication of the U. S. Environmental Protection Agency's **Federal Register** Notice of Filing and ends on August 9, 2010. To ensure consideration, comments on the DEIS and the proposed action must be received or postmarked by August 9, 2010. The NRC staff will consider comments received or postmarked after that date to the extent practical.

The NRC will conduct two public meetings in Wilmington, North Carolina. The meeting date, times, and location are listed below:

Meeting Date: July 22, 2010.

Meeting Location: Warwick Center, Ballroom 5, 601 S. College Rd., University of North Carolina Wilmington, North Carolina, 28403.

Informal Open House Sessions: 1:30–2:30 p.m. and 6:30–7:30 p.m.

DEIS Comment Meetings: 2:30–5 p.m. and 7:30–10 p.m.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2009–0157 in the subject line of your comments.

Electronic mail: Comments may be mailed to *GLE.EIS@nrc.gov.*

Federal Rulemaking Web site: Comments can be submitted electronically at *http://www.regulations.gov.* Search for documents filed under Docket ID NRC–2009–0157. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail: Comments may be submitted by sending mail to Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Division of Administrative Services, Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RADB at (301) 492–3446.

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal Rulemaking Web site *http://www.regulations.gov.* Because comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Document Availability: Publicly available documents related to this notice can be accessed using any the methods described in this section. One appendix of the DEIS contains Sensitive Unclassified Non-Safeguards Information (SUNSI) and has been withheld from public inspection in accordance with 10 CFR 2.390, Availability of Public Records. This appendix contains proprietary business information as well as security-related information. The NRC staff has considered the information in this appendix in forming the conclusions presented in the publicly-available version of the document. Procedures for obtaining access to SUNSI were published in the NRC's Notice of Hearing and Commission Order (75 FR 1819).

NRC's Public Document Room (PDR): Publicly-available portions of GEH's application, safety analysis report, environmental report, supplements to its environmental report, and NRC's DEIS are available to the public at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852. Members of the public can contact the NRC's PDR reference staff by calling 1–800–397–4209, by faxing a request to 301–415–3548, or by e-mail to *pdr.resource@nrc.gov.* Hard copies of the documents are available from the PDR for a fee.

GLE Web site: Documents related to this notice also are available on the NRC's GE Laser Enrichment Facility Licensing Web site at *http://www.nrc.gov/materials/fuel-cycle-fac/laser.html#2a.*

NRC's Agencywide Documents Access and Management System (ADAMS): Members of the public can access the NRC's Agencywide Documents Access and Management System (ADAMS) at *http://www.nrc.gov/reading-rm/adams.html.* From this Web site, enter the accession numbers included here for GEH's license application (ML091871003), the exemption authorizing certain preconstruction activities (ML083510647), GEH's Environmental Report (ML090910573), Supplement 1 to the Environmental Report (ML092100577), Supplement 2 to the Environmental Report (ML093240135), and NRC's DEIS (ML101680345).

Federal Rulemaking Web site: Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2009–0157.

The DEIS for the proposed GLE Facility may be accessed on the internet at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1938.* Copies of the DEIS also will be available at the New Hanover County Library, 201 Chestnut Street, Wilmington, North Carolina, 28401.

FOR FURTHER INFORMATION CONTACT: For general or technical information associated with the licensing review of the GLE application, please contact Tim Johnson at (301) 492–3121 or *Timothy.Johnson@nrc.gov.* For information about the DEIS or environmental review process, please contact Jennifer A. Davis at (301) 415–3835 or *Jennifer.Davis@nrc.gov.*

SUPPLEMENTARY INFORMATION: This DEIS was prepared in response to an application submitted by GEH dated June 26, 2009. The application proposes the construction, operation, and decommissioning of the proposed GLE Facility, to be located near Wilmington, North Carolina. The DEIS was prepared by the NRC and its contractor, Argonne National Laboratory, in compliance with the National Environmental Policy Act of 1969, as amended, (NEPA) and the NRC's regulations for implementing NEPA (10 CFR Part 51).

The DEIS is being issued as part of the NRC's process to decide whether to issue a license to GEH, pursuant to Title 10 of the U.S. Code of Federal Regulations Parts 30, 40, and 70. The scope of activities conducted under the license would include the construction, operation, and decommissioning of the proposed GLE Facility. Specifically, GLE proposes to use laser-based technology to enrich the uranium-235 isotope found in natural uranium to concentrations up to 8 percent by weight. The enriched uranium would be used to manufacture nuclear fuel for commercial nuclear power reactors. GEH proposes to locate the facility on the existing GE site near Wilmington, North Carolina.

The NRC staff published a Notice of Intent to prepare an EIS for the proposed GLE Facility and to conduct a scoping process in the **Federal Register** on April 9, 2009 (74 FR 16237). The NRC staff accepted comments through June 8, 2009, and subsequently extended the scoping comment period (74 FR 36781) to August 31, 2009, to accommodate public inspection of GEH's license application, submitted June 26, 2009. The NRC staff issued a Scoping Summary Report in November 2009 (ADAMS Accession Number: ML093280734).

The NRC staff assessed the impacts of the proposed action and its alternatives on public and occupational health, air quality, water resources, waste management, geology and soils, noise, ecology resources, land use, transportation, historic and cultural resources, visual and scenic resources, socioeconomics, accidents, and environmental justice. Additionally, the DEIS analyzes and compares the costs and benefits of the proposed action.

Based on the preliminary evaluation in the DEIS, the NRC environmental review staff has concluded that the proposed action and associated preconstruction activities would have small effects on the physical environment and human communities with the exception of: (1) Short-term moderate impacts associated with increases in particulate matter released to the air during road construction, land clearing, and building construction, (2) small to moderate impacts related to increased traffic congestion near the site entrance during preconstruction and construction activities, (3) small to moderate impacts on historic and cultural resources associated with potential facility expansion, (4) small to moderate impacts on vegetation and wildlife associated with preconstruction activities, and (5) moderate but temporary noise impacts during road construction.

In addition to the action proposed by GEH, the NRC staff addressed two alternatives in the DEIS: A no-action alternative and use of gas centrifuge uranium enrichment technology. Under the no-action alternative, NRC would deny GEH's application for a license to construct and operate a laser-based uranium enrichment facility. The no-action alternative serves as a baseline for comparison of the potential environmental impacts of granting the license. Under the gas centrifuge alternative, GEH would implement gas centrifuge technology to enrich uranium at the Wilmington Site instead of using the proposed laser-based technology. Because specific design information for a gas centrifuge facility at the Wilmington Site does not exist, the gas centrifuge alternative was evaluated qualitatively and in less detail than the proposed alternative and the no-action alternative. Other alternatives (*e.g.,* alternate locations, alternate technologies) also were considered but, for reasons discussed in the DEIS, were eliminated from detailed analysis.

After weighing the impacts, costs, and benefits of the proposed action and comparing alternatives, the NRC staff, in accordance with 10 CFR 51.71(e), set forth its preliminary recommendation regarding the proposed action. The NRC staff preliminarily recommends that, unless safety issues mandate otherwise, the proposed action should be approved (*i.e.,* NRC should issue a license).

The DEIS is a preliminary analysis of the environmental impacts of the proposed action and its alternatives. The Final EIS and any decision documentation regarding the proposed action will not be issued until public comments on the DEIS have been received and evaluated. Comments received on the DEIS will be addressed in the Final EIS. Notice of the availability of the Final EIS will be published in the **Federal Register.** The Final EIS is scheduled to be completed in February 2011.

The NRC staff in the Office of Nuclear Material Safety and Safeguards, Division of Fuel Cycle Safety and Safeguards is currently completing the safety review of GEH's license application. The safety review is currently scheduled for completion in December 2010.

Dated at Rockville, Maryland, this 17th day of June, 2010.

For the U.S. Nuclear Regulatory Commission.

Larry W. Camper,

Director, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2010–15445 Filed 6–24–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Dockets 50–029, 72–31; NRC–2010–0231]

Yankee Atomic Electric Co.; Yankee Atomic Independent Spent Fuel Storage Installation; Issuance of Environmental Assessment and Finding of No Significant Impact Regarding the Request for Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of environmental assessment and finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: John Goshen, Project Manager, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC. 20555. Telephone: (301) 492–3325; fax number: (301) 492–3342; e-mail: *john.goshen@nrc.gov.*

Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption to Yankee Atomic Electric Company (YAEC), pursuant to 10 CFR 72.7, from the specific provisions of 10 CFR 72.212(a)(2), 72.212(b)(2)(i)(A), 72.212(b)(7), and 72.214. YAEC is using a dry cask storage system, the NAC–MPC, Certificate of Compliance (CoC) No. 1025, to store spent nuclear fuel under a general license in an independent spent fuel storage installation (ISFSI) associated with the decommissioned Yankee Nuclear Power Station, located at Rowe, Massachusetts. YAEC stores spent fuel in fifteen NAC–MPC casks at the YAEC ISFSI, all loaded under Amendment No. 3 to CoC No. 1025. Under the current 10 CFR part 72 regulations, the general licensee is bound by the terms and conditions of the CoC under which it loaded a given cask. Amendment No. 3 will remain in effect for the casks at the YAEC ISFSI until the NRC expressly approves the application of changes authorized by a later CoC amendment. Such an approval is typically accomplished through a 10 CFR 72.7 exemption.

In its letter dated February 23, 2010, YAEC stated that it intended to adopt Amendment No. 5 to CoC No. 1025 for all fifteen NAC–MPC casks at the site. Implementation of Amendment No. 5 of CoC No. 1025 to all fifteen NAC–MPC casks will allow a visual alternative to Technical Specification (TS) Surveillance Requirement 3.1.6.1 to verify the operability of the concrete cask heat removal system to maintain safe storage conditions and will also remove a specification in the CoC for tamper indicating devices. The NRC published the direct final rule for Amendment No. 5 of CoC No. 1025 on May 10, 2007 (72 FR 26535), with an effective date of July 24, 2007 (72 FR 38468, July 13, 2007).

In its letter of February 23, 2010, YAEC did not request that the NRC expressly approve implementation of Amendment No. 5 to all fifteen NAC–MPC casks at the site. YAEC, however,

initiated an evaluation to determine if the fifteen casks conform to the requirements of Amendment No. 5 of CoC No. 1025. The evaluation concluded that all fifteen casks conform to Amendment No. 5. Under the current 10 CFR part 72 regulations, a general licensee, such as YAEC, is not authorized to apply changes allowed by a later CoC amendment (in this case, Amendment No. 5) to a cask loaded under an earlier CoC amendment (in this case, Amendment No. 3) without express prior approval of the NRC.[1] Thus, in order to effectuate the requested exemption, the NRC will have to expand the scope of the requested exemption to include the application of the changes authorized by Amendment No. 5 to the subject casks. The applicable regulation, 10 CFR 72.7, allows the NRC to grant exemptions upon its own initiative.

In its letter of February 23, 2010, YAEC also request the continuation of two exemptions from the terms and conditions of Amendment No. 5, similar to two previously approved exemptions from the terms and conditions of Amendment No. 3. Specifically, YAEC requests exemptions from the following Amendment No. 5 requirements to: (1) Develop training modules under the Systems Approach to Training (SAT) that include comprehensive instructions for the operations and maintenance of ISFSI systems, structures, and components, as required by Appendix A, Section A 5.1, "Training Program," other than the NAC–MPC system; and (2) submit an annual report pursuant to 10 CFR 72.44(d)(3) or 10 CFR 50.36a(a)(2), per Appendix A, Section A 5.4, "Radioactive Effluent Control Program," that specifies the quantity of each of the principal radionuclides released to the environment in liquid and gaseous effluents during the previous 12 months of operation. YAEC has asserted that the NAC–MPC system is a sealed and leak-tight spent fuel storage system and as such, there are no effluent releases from the system.

In accordance with the requirements in 10 CFR part 51, the NRC has prepared an environmental assessment for the NRC action of approving or disapproving an exemption from the requirements of 10 CFR 72.212(a)(2), 72.212(b)(2)(i)(A), 72.212(b)(7), and 72.214, which, if approved, will allow YAEC to apply the changes authorized by Amendment No. 5 to the fifteen NAC–MPC casks loaded under Amendment No. 3 at the YAEC ISFSI. Based upon this environmental assessment, the NRC has concluded that a Finding of No Significant Impact is appropriate. The requests for exemptions from the requirements of Appendix A, Section A 5.4, Radioactive Effluent Control Program, and Appendix A,, Section A 5.1, Training Program are categorically excluded from further environmental review in accordance with 10 CFR 51.22(c)(25)(vi)(B) and (E), respectively.

Environmental Assessment

Identification of Proposed Action: The NRC proposes to issue an exemption to YAEC from the requirements of 10 CFR 72.212(a)(2), 72.212(b)(2)(i)(A), 72.212(b)(7), and 72.214, thereby allowing YAEC to apply the changes authorized by Amendment No. 5 to CoC No. 1025 to the fifteen NAC–MOC casks at the YAEC ISFSI, which were loaded under Amendment No. 3 to CoC No. 1025. Section 72.212(a)(2) provides that the general license is limited to storage of spent fuel in casks approved under the provisions of 10 CFR part 72; § 72.212(b)(2)(i)(A) requires the general licensee to perform written evaluations, prior to use of a cask, that establish that the conditions set forth in the CoC have been met; § 72.212(b)(7) requires that the general licensee comply with the terms and conditions of the CoC; and § 72.214 lists the cask designs that have been approved by the NRC and are available for use by general licensees under the 10 CFR part 72 general license. The NRC's regulatory authority to grant these exemptions is 10 CFR 72.7.

Need for the Proposed Action: Implementation of the changes authorized by Amendment No. 5 of CoC No. 1025 to all fifteen NAC–MPC casks at the YAEC ISFSI will allow a visual alternative to Technical Specification (TS) Surveillance Requirement 3.1.6.1 to verify the operability of the concrete cask heat removal system to maintain safe storage conditions and will also remove a specification in the CoC for tamper indicating devices. These changes will provide the applicant with significant cost savings and flexibility without any decrease in safety.

Environmental Impacts of the Proposed Action: The NRC has reviewed the exemption request submitted by YAEC and has determined that allowing YAEC to apply the changes authorized by Amendment No. 5 of CoC No. 1025 to the casks at the YAEC ISFSI, if approved, would have no significant impact to the environment. In connection with the approval of Amendment No. 5 of CoC 1025, the NRC prepared and published in the **Federal Register** a Finding of No Significant, based upon an environmental assessment, for the generic use of the changes authorized by Amendment No. 5 (72 FR 26535, 26537, May 10, 2007).

Further, NRC has evaluated the impact to public safety that would result from granting the proposed action. The approval of the proposed action would not increase the probability or consequences of accidents, no changes would be made to the types of effluents released offsite, and there would be no increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action. Additionally the proposed action would not involve any construction or other ground disturbing activities, would not change the footprint of the existing ISFSI, and would have no other significant non-radiological impacts. In this regard, and as the ISFSI is located on previously disturbed land, it is extremely unlikely that approval of the proposed action would create any significant impact on the aquatic or terrestrial habitat in the vicinity of the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or to essential fish habitat covered by the Magnuson-Stevens Act. Similarly, approval of the proposed action is not the type of activity that has the potential to cause effects on historic or cultural properties, assuming such properties are present at the site of the YAEC ISFSI.

Alternative to the Proposed Action: Since there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the exemption. This alternative would have the same environmental impact.

Given that there are no significant differences in environmental impact between the proposed action and the alternative considered and that YAEC has a legitimate need, the Commission concludes that the preferred alternative is to grant the requested exemption.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing Environmental Assessment, the Commission finds that the proposed action of granting an exemption from the specific requirements of 10 CFR 72.212(a)(2), 72.212(b)(2)(i)(A), 72.212(b)(7), and 72.214, will not significantly impact the quality of the

[1] See Enforcement Guidance Memorandum 09–006, dated September 15, 2009 (ADAMS Accession No. ML091970035).

human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

Further Information

In accordance with 10 CFR 2.390 of NRC's "Rules of Practice," NRC records and documents related to this action, including the application for exemption and supporting documentation are available electronically at the NRC's Electronic Reading Room, at: *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access NRC's ADAMS, which provides text and image files of NRC's public documents. The ADAMS Accession Number for the application, dated February 23, 2010, is ML100610320.

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact NRC's Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

These documents may also be viewed electronically on the public computers located at NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents, for a fee.

Dated at Rockville, Maryland, this 17th day of June, 2010.

For the Nuclear Regulatory Commission.

Eric Benner,

Chief Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2010–15442 Filed 6–24–10; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection:

Certification Regarding Rights to Unemployment Benefits; OMB 3220–0079. Under Section 4 of the Railroad Unemployment Insurance Act (RUIA), an employee who leaves work voluntarily is disqualified for unemployment benefits unless the employee left work for good cause and is not qualified for unemployment benefits under any other law. RRB Form UI–45, Claimant's Statement—Voluntary Leaving of Work, is used by the RRB to obtain the claimant's statement when it is indicated by the claimant, the claimant's employer, or another source that the claimant has voluntarily left work. The RRB proposes no changes to Form UI–45.

Completion of Form UI–45 is required to obtain or retain benefits. One response is received from each respondent. The completion time for Form UI–45 is estimated at 15 minutes per response. The RRB estimates that approximately 2,900 responses are received annually.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV*. Comments regarding the information collection should be addressed to Patricia Henaghan, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Patricia.Henaghan@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 2010–15449 Filed 6–24–10; 8:45 am]

BILLING CODE 7905–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before August 24, 2010.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Kirk McElwain, Web Director, Office of Communications and Public Liaison, Small Business Administration, 409 3rd Street, 7th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Kirk McElwain, Office of Communications and Public Liaison, 202–205–6175 *kirk.mcelwain@sba.gov,* or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov*.

SUPPLEMENTARY INFORMATION: SBA plans to make its SBA.gov Web site more user-centric and focused on the needs of small businesses and lenders. The SBA would like the new site to incorporate innovative and meaningful online tools and features that effectively deliver information and services to lenders and small businesses, and enable businesses to gain necessary access to the capital and tools they need to drive economic recovery and create and retain jobs. It will enable entrepreneurs, small business owners, and lenders to save time and money by providing them with tools to find information they need from local, state, and federal government and a forum to learn from their peers and industry experts. The content and services delivered to SBA.gov users will be most valuable if they are relevant and specific to their needs. Without regular program information collections, SBA would be unable to determine these needs and efficiently meet them. Furthermore, this information collection will allow the SBA to deliver the Agency's core values of customer service, accountability, and transparency and carry out the intent of Executive Orders 12862. Absence of the information provided by willing participants would impact SBA's ability to carry out its mission and the mandates of Executive Order 12862, as well as President Obama's January 21, 2009, memorandum on transparency and open government.

Title: "SBA Direct and SBA Online Community."

Description of Respondents: On Occasion.

Form Number: N/A.

Annual Responses: 710,000.

Annual Burden: 4,000.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 2010–15367 Filed 6–24–10; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–29302; File No. 812–13713]

Pruco Life Insurance Company, et al.; Notice of Application

June 18, 2010.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under Section 6(c) of the Investment Company Act of 1940, as amended (the "Act" or "1940 Act") granting exemptions from the provisions of Sections 2(a)(32), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder.

APPLICANTS: Pruco Life Insurance Company ("Pruco Life"), Pruco Life Insurance Company of New Jersey ("PLNJ," and collectively with Pruco Life, the "Insurance Companies"), Pruco Life Flexible Premium Variable Annuity Account ("Pruco Life Account"); Pruco Life of New Jersey Flexible Premium Variable Annuity Account ("Pruco Life of New Jersey Account," and collectively with Pruco Life Account, the "Accounts"), and Prudential Annuities Distributors, Inc. ("PAD", and collectively with the Insurance Companies, and the Accounts "Applicants").

SUMMARY: *Summary of Application:* Applicants seek an order under Section 6(c) of the Act, exempting them from Sections 2(a)(32), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder, to permit the recapture of credits previously applied to purchase payments under certain variable flexible premium deferred annuity contracts issued by the Insurance Companies.

DATES: *Filing Date:* The application was filed on November 2, 2009 and amended on June 18, 2010.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 13, 2010, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 100 F Street, NE., Washington, DC 20549–1090. Applicants, c/o C. Christopher Sprague, Esq., The Prudential Insurance Company of America, 751 Broad Street, Newark, NJ 07102.

FOR FURTHER INFORMATION CONTACT: Sally Samuel, Senior Counsel, or Joyce M. Pickholz, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 551–6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Applicants' Representations

1. In this application, Applicants seek the exemptions needed to recapture purchase credits granted under the Prudential Premier Retirement Variable Annuity X Series annuity (the "Contract") to be issued by each of Pruco Life and PLNJ, in the circumstances set forth below. The Contract is a "bonus annuity" registered on Form N–4 in registration statements file nos. 333–162673 and 333–162678. These Pruco Life and PLNJ registration statements are incorporated by reference into the application to the extent necessary. These Form N–4 registration statements also describe other annuity classes that do not offer purchase credits and thus are not the subject of the exemptions requested in this application. Applicants also ask that the exemptions requested extend to contracts that are substantially similar in all material respects to the Contracts (the "Future Contracts") issued through the Accounts or any other separate account of the Insurance Companies created in the future (a "Future Account") to support Future Contracts.

2. Pruco Life is a stock life insurance company organized under the laws of the State of Arizona. PLNJ is a stock life insurance company organized under the laws of the State of New Jersey. PLNJ is a wholly-owned subsidiary of Pruco Life, which is itself a wholly-owned subsidiary of The Prudential Insurance Company of America ("Prudential"). PAD, an affiliate of Prudential, is the principal underwriter of the Contract. PAD is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934, as amended (the "1934 Act") and is a member of FINRA.

3. Pruco Life is the issuer of the Contracts funded through Pruco Life Account and serves as depositor of the Pruco Life Account. PLNJ is the issuer of the Contracts funded through Pruco Life of New Jersey Account and serves as depositor of the Pruco Life of New Jersey Account. Pruco Life and PLNJ may in the future issue Future Contracts through the Accounts, or through Future Accounts for which they would also serve as depositor.

4. Pruco Life Account is a segregated asset account of Pruco Life (file no. 811–07325), and Pruco Life of New Jersey Account is a segregated asset account of PLNJ (file no. 811–07975). The respective Accounts will fund the variable benefits available under the Contracts. Each Account is registered under the Act as a unit investment trust and meets the definition of separate account set forth in Section 2(a)(37) of the Act. The same will be true of any Future Account.

5. The Contracts are variable flexible premium deferred annuity contracts. Registered representatives of broker-dealers with which PAD has entered into selling agreements will sell the Contracts. The Contracts may be issued on a non-tax qualified basis or in connection with arrangements that qualify for favorable Federal income tax treatment under Internal Revenue Code (*e.g.,* IRAs). Certain of the features and benefits under the Contracts described below may differ, depending on the State in which the Contract is issued and the broker-dealer through which the Contract is sold.

6. A Contract may be purchased with a minimum initial payment of $10,000. Unless prohibited by applicable State law, the Insurance Companies presently allow additional purchase payments, provided that the payment is at least $100 (a $50 minimum is imposed for electronic fund transfer purchases). The Insurance Companies reserve the right to change these purchase payment minimums. The Insurance Companies reserve the right to refuse any initial or additional purchase payment where the total amount of purchase payments equals $1,000,000 or more with respect to the Contract and any other annuities the annuity owner is purchasing from the Insurance Companies and/or their affiliates. The maximum issue age for a Contract is 80.

7. The Contract offers variable investment options and a companion market-value adjustment option that has

been registered on Form S–3 (*see* file no. 333–162683). The Form S–3 is incorporated into the application by reference to the extent necessary for the exemptions requested in the application. Pruco Life will offer one market value adjustment option with three, five, seven, and ten year guarantee periods, and may offer guarantee periods of other durations in the future. Pruco Life also will offer a market value adjustment option to be used in connection with a dollar-cost averaging program in which amounts are transferred systematically over a 6-month or 12-month period. The multi-year market value adjustment option and 6-month/12-month market value adjustment option are registered on a single Form S–3 registration statement. PLNJ does not intend to offer these market value adjustment options in New York, but may choose to do so at a later date. Pruco Life may eliminate any or all of the multi-year "guarantee periods," or offer guarantee periods of different durations.

8. Contract owners may select one of several optional living benefits. The Contract offers two guaranteed minimum accumulation benefits, called the Guaranteed Return Option Plus II and Highest Daily Guaranteed Return Option II, for which each of Pruco Life and PLNJ imposes a charge equal to 0.60% annually, applied against the account value in the sub-accounts. The Contract also offers guaranteed lifetime withdrawal benefits, under which the benefit participant may, subject to certain limitations, withdraw an "annual income amount" each year for life, irrespective of market-based declines in the Contract's account value. These guaranteed lifetime withdrawal benefits are: (a) Highest Daily Lifetime 6 Plus, offered for a charge currently equal to 0.85% assessed against the greater of the Contract's account value or the "protected withdrawal value" under the benefit; (b) Highest Daily Lifetime 6 Plus with Lifetime Income Accelerator, offered for a charge currently equal to 1.20% assessed against the greater of the Contract's account value or the protected withdrawal value under the benefit; and (c) Spousal Highest Daily Lifetime 6 Plus, offered for a charge currently equal to 0.95% assessed against the greater of the Contract's account value or the protected withdrawal value under the benefit. The Insurance Companies reserve the right to increase the charges for the optional lifetime guaranteed minimum withdrawal benefits in certain circumstances. Certain of these optional living benefits may be modified or not offered, depending on applicable State law.

9. The minimum death benefit under the Contracts is equal to the greater of the following: (a) the sum of all purchase payments made since the issue date of the Contract (excluding any purchase credits) until the date due proof of death is received, reduced proportionally by the ratio of the amount of any withdrawal to the account value immediately prior to the withdrawal; and (b) the "unadjusted account value" (*i.e.,* the account value without any positive or negative market value adjustment), less the amount of any purchase credits applied during the period beginning 12 months prior to the decedent's date of death, and ending on the date we receive due proof of death. The charge for the minimum death benefit is subsumed within the basic insurance charge for the Contract, which is equal to 1.85% annually (assessed against the sub-accounts) during the first 9 annuity years and 1.30% annually in later annuity years. The Contract offers two optional death benefits: (a) The Highest Anniversary Value Death Benefit, under which the death benefit generally is equal to the greater of (i) the minimum death benefit described above and (ii) the greatest of the account values attained on each anniversary of the issue date of the Contract up to and including the earlier of the date of death or attainment of a "death benefit target date"; and (b) a Combination 5% Roll-Up and Highest Anniversary Value Death Benefit, under which the death benefit generally is equal to the greater of the minimum death benefit described above, the Highest Anniversary Value Death Benefit described above, and purchase payments (including purchase credits) appreciated at an annual effective interest rate currently equal to 5% until the earlier of the date of death or attainment of a "death benefit target date." As detailed in the registration statements for the Contracts, each of the Highest Anniversary Value Death Benefit and the Combination 5% Roll-Up and Highest Anniversary Value Death Benefit is adjusted for purchase payments and withdrawals. Certain of these optional death benefits may be modified or not offered, depending on applicable State law. Pruco Life will impose a charge, assessed against sub-account net assets, of 0.80% annually for the Combination 5% Roll-Up and HAV Death Benefit (this benefit is not offered by PLNJ in New York), and each Insurance Company will impose a charge, assessed against Sub-account net assets, of 0.40% annually for the Highest Anniversary Value Death Benefit.

10. The Contracts provide for a withdrawal charge equal to a percentage of purchase payments surrendered, which declines according to the following schedule:

"Age" of purchase payment being withdrawn	Percentage applied against purchase payment being withdrawn
Less than one year old	9.0
1 year old or older, but not yet 2 years old	9.0
2 years old or older, but not yet 3 years old	9.0
3 years old or older, but not yet 4 years old	9.0
4 years old or older, but not yet 5 years old	8.0
5 years old or older, but not yet 6 years old	8.0
6 years old or older, but not yet 7 years old	8.0
7 years old or older, but not yet 8 years old	5.0
8 years old or older, but not yet 9 years old	2.5
9 or more years old	0.0

11. Some Contracts may offer lower withdrawal charges than what is indicated above. A "charge-free" amount, generally equal to 10% of all purchase payments currently subject to a contingent deferred sales charge, is exempt from the above charge. No withdrawal charge is imposed in any situation where the purchase credit is recaptured.

12. Other charges under the Contracts are: (a) A mortality, expense and

administrative risk charge at annual rates of 1.85% in Contract years 1–9 and 1.30% in later Contract years; (b) an annual contract maintenance charge equal to the lesser of $50 or 2% of the unadjusted account value (for the PLNJ Contract, the lesser of $30 or 2% of the account value); (c) in those jurisdictions in which premium taxes are assessed, a charge to cover these taxes, deducted either at the time the tax is imposed, upon full surrender of the Contract, or when annuity payments begin; (d) for each transfer among subaccounts after the twentieth in a single Contract year, a charge of $10; and (e) the optional benefits charges discussed above. In addition, the underlying mutual funds each impose investment management fees and charges for various other expenses.

13. Each time an Insurance Company receives a purchase payment under the Contracts, it will allocate to the contract value a purchase credit equal to a percentage of each purchase payment received (hereinafter, a "Credit"). With respect to purchase payments (of any amount) received during Contract years 1 through 4, the Credit percentage will equal 6%, so long as the oldest owner of the Contract (or the Annuitant, if entity-owned) is younger than 82 at the time the purchase payment is made. If the oldest owner (or Annuitant, if entity-owned) of the Contract is aged 82–85 at the time the purchase payment (of any amount) is made, the Credit percentage will equal 3% during Contract years 1–4. With respect to purchase payments received on the fourth anniversary of the Contract's issue date and thereafter, regardless of the Owner's/Annuitant's age, no Credit will be applied. Because neither Insurance Company accepts purchase payments after the oldest owner of the Contract (or the Annuitant, if entity-owned) is older than 85, there will be no Credits applied in that scenario.

14. Each Insurance Company may offer a special class of the Contract (the "Employee/Agent Contract") that is identical in all material respects to the Contract itself, except that: (a) The Employee/Agent Contract will be offered only to the following class of purchasers: (i) Current or retired officers, directors, trustees, and employees (and their immediate families, where "immediate family" includes the spouse, children, mother and father of the owner) of Prudential Financial, Inc. and its affiliates; and (ii) current employees and registered representatives (and their immediate families) of any broker-dealer firm that has a selling agreement with PAD; (b) the Credit under the Employee/Agent Contract will be different; and (c) a lower (or no) commission will be paid with respect to the Employee/Agent Contract. The withdrawal charge under the Employee/Agent Contract will be the same as what is set forth above for the Contract.

15. With respect to purchase payments (of any amount) received during years 1 through 4 of the Employee/Agent Contract, the Credit percentage will equal 9%, so long as the oldest owner of the Employee/Agent Contract (or Annuitant, if entity-owned) is younger than 82 at the time the purchase payment is made. If the oldest owner (or Annuitant, if entity-owned) of the Employee/Agent Contract is aged 82–85 at the time the purchase payment (of any amount) is made, the Credit percentage will equal 4.5% during years 1–4 of the Employee/Agent Contract. With respect to purchase payments received on the fourth anniversary of the Employee/Agents Contract's issue date and thereafter, regardless of the owner's age, no Credit will be applied. Because neither Insurance Company accepts purchase payments under the Employee/Agent Contract after the oldest owner of the Contract (or the Annuitant, if entity-owned) is older than 85, there will be no Credits applied in that scenario. With respect to Employee/Agent Contracts where a 9% Credit was applied, Applicants represent they will recapture only an amount equal to 6.5% of the purchase payment to which the 9% Credit related.

16. With respect to both the Contracts and the Employee/Agent Contracts, the Credit will be allocated among the variable investment options in the same percentages as the purchase payment to which it relates. Except where indicated specifically, references to the "Contract" are intended to include both the Contracts and the Employee/Agent Contracts, and references to "Credits" are intended to include both Credits granted under the Contracts and Credits granted under the Employee/Agent Contracts.

17. Each Insurance Company will fund Credits from its general account assets. To the extent allowed by applicable State law, each Insurance Company will recapture Credits under the following circumstances: (a) If the Contract is canceled under the "free look" provision; (b) with respect to Credits granted within the period beginning 12 months prior to the decedent's date of death and ending on the date due proof of death is received; and (c) with respect to Credits granted within 12 months prior to the Insurance Company's receipt in good order of the exercise of the medically-related surrender provision of the Contract.

18. The Contract may be continued by a person who survives the death of his/her spouse. Neither Insurance Company will recapture any Credits when the surviving spouse continues the Contract. However, for the Pruco Life Contract, if the death benefit payable upon the death of the surviving spouse is equal to the "unadjusted" account value (where "unadjusted account value" means account value without the effect of any market value adjustment), then Pruco Life will recapture Credits that were applied during the time period that (a) begins 12 months prior to the first-to-die spouse's date of death; and (b) ends on the date due proof of death of the first-to-die spouse was received.

Applicants' Legal Analysis

1. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Applicants request that the Commission, pursuant to Section 6(c) of the Act, issue an order to the extent necessary to permit the recapture of Credits under the circumstances described above. Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants submit that the recapture of the Credits will not raise concerns under Sections 2(a)(32) and 27(i)(2)(A) of the Act, and Rule 22c–1 thereunder. The Credits will be recaptured only in the following instances: (a) If the Contract is canceled under the "free look" provision; (b) with respect to Credits granted within the period beginning 12 months prior to the decedent's date of death and ending on the date due proof of death is received; (c) with respect to Credits granted within 12 months prior to the Insurance Company's receipt in good order of the exercise of the medically-related surrender provision of the Contract; and (d) in the case of a spousally-continued Contract, if the death benefit payable upon the death of the surviving spouse is equal to the amount detailed above. With respect to Employee/Agent

Contracts where a 9% Credit was applied, Applicants will recapture only an amount equal to 6.5% of the purchase payment to which the 9% Credit related. Applicants represent that no withdrawal charge will be deducted in any instance where a Credit is recaptured.

4. The amounts recaptured equal the Credit provided by each Insurance Company from its own general account assets. Applicants argue that when Insurance Company recaptures the Credit, it is merely retrieving its own assets, and the owner has not been deprived of a proportionate share of the Account's assets, because his or her interest in the Credit amount has not vested. With respect to a Credit recaptured upon the exercise of the free-look privilege, it would be unfair to allow an owner exercising that privilege to retain the Credit under a Contract that has been returned for a refund after a period of only a few days. If Insurance Company could not recapture the Credit during the free look period, individuals could purchase a Contract with no intention of retaining it, and simply return it for a quick profit. Applicants also note that the Contract owner is entitled to retain any investment gain attributable to the Credit, even if the Credit is ultimately recaptured. Furthermore, the recapture of the Credit if death or a medically-related surrender occurs within 12 months after receipt of a Credit is designed to provide the Insurance Company with a measure of protection against "anti-selection." The risk here is that an owner, with full knowledge of impending death or serious illness, will make very large payments and thereby leave the Insurance Company less time to recover the cost of the Credit, to the Insurance Company's financial detriment.

5. The recapture of a Credit could be viewed as involving the redemption of redeemable securities for a price other than one based on the current net asset value of an Account. The recapture of the Credit does not involve either of the evils that Rule 22c–1 was intended to address, namely: (i) The dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or redemption or repurchase at a price above it; and (ii) other unfair results, including speculative trading practices. Applicants assert that the proposed recapture of the Credit does not pose a threat of dilution. To effect a recapture of a Credit, interests in an owner's account will be redeemed at a price determined on the basis of the current net asset value. The amount recaptured will equal the amount of the Credit that the Insurance Company paid out of its general account assets. Although the owner will be entitled to retain any investment gain attributable to a Credit, the amount of that gain will be determined on the basis of current net asset value. Therefore, no dilution will occur upon the recapture of a Credit. Applicants also submit that the second harm that Rule 22c–1 was designed to address, namely speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of a Credit.

6. Applicants submit that their request for an order that applies to any Account or any Future Account established by Pruco Life or PLNJ in connection with the issuance of Contracts and Future Contracts, and distributed by PAD is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the Act that has not already been addressed in the application. Having Applicants file additional applications would impair Applicants' ability effectively to take advantage of business opportunities as they arise.

7. Applicants undertake that Future Contracts funded by the Accounts or by Future Accounts that seek to rely on the order issued pursuant to the application will be substantially similar to the Contracts in all material respects.

Conclusion

Applicants submit that their request for an order meets the standards set out in Section 6(c) of the Act and that an order should, therefore, be granted.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15362 Filed 6–24–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

SSE Telecom, Inc., Strategic Alliance Group, Inc., (n/k/a CruiseCam International, Inc.), Stratasec, Inc., Superfly Advertising, Inc. (f/k/a Morlex, Inc.), SVI Media, Inc., Symons International Group, Inc., Synergy Renewable Resources, Inc., and Syntech International, Inc. (n/k/a Avalon Technology Group, Inc.); Order of Suspension of Trading

June 23, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SSE Telecom, Inc. because it has not filed any periodic reports since the period ended December 30, 2000.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Strategic Alliance Group, Inc. (n/k/a CruiseCam International, Inc.) because it has not filed any periodic reports since the period ended December 31, 2005.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Stratasec, Inc. because it has not filed any periodic reports since the period ended March 31, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Superfly Advertising, Inc. (f/k/a Morlex, Inc.) because it has not filed any periodic reports since the period ended December 31, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SVI Media, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Symons International Group, Inc. because it has not filed any periodic reports since the period ended March 31, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Synergy Renewable Resources, Inc. because it has not filed any periodic reports since the period ended December 31, 1996.

It appears to the Securities and Exchange Commission that there is a

lack of current and accurate information concerning the securities of Syntech International, Inc. (n/k/a Avalon Technology Group, Inc.) because it has not filed any periodic reports since the period ended September 30, 1994.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. e.d.t. on June 23, 2010, through 11:59 p.m. e.d.t. on July 7, 2010.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2010–15585 Filed 6–23–10; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Channel America Television Network, Inc., EquiMed, Inc., Kore Holdings, Inc., Robotic Vision Systems, Inc. (n/k/a Acuity Cimatrix, Inc.), Security Investments Group, Inc., Shared Technologies Cellular, Inc., Shimoda Resources Holdings, Inc., Tri Star Holdings, Inc. (f/k/a Silver Star Foods, Inc.), and V–One Corp.; Order of Suspension of Trading

June 23, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Channel America Television Network, Inc. because it has not filed any periodic reports since the period ended December 31, 1994.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of EquiMed, Inc. because it has not filed any periodic reports since the period ended September 30, 1997.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Kore Holdings, Inc. because it has not filed any periodic reports since the period ended September 30, 2005.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Robotic Vision Systems, Inc. (n/k/a Acuity Cimatrix, Inc.) because it has not filed any periodic reports since the period ended June 30, 2004.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Security Investments Group, Inc. because it has not filed any periodic reports since the period ended September 30, 1995.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Shared Technologies Cellular, Inc. because it has not filed any periodic reports since the period ended September 30, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Shimoda Resources Holdings, Inc. because it has not filed any periodic reports since the period ended August 31, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Tri Star Holdings, Inc. (f/k/a Silver Star Foods, Inc.) because it has not filed any periodic reports since the period ended December 31, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of V–One Corp. because it has not filed any periodic reports since the period ended September 30, 2004.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on June 23, 2010, through 11:59 p.m. EDT on July 7, 2010.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2010–15586 Filed 6–23–10; 4:15 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62325; File No. SR–Phlx–2010–85]

Self-Regulatory Organizations; NASDAQ OMX PHLX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to FLEX Equity Options

June 18, 2010.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and rule 19b–4 thereunder,[2] notice is hereby given that on June 15, 2010, NASDAQ OMX PHLX, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to assess a transaction charge for members trading Flexible Exchange® Options ("FLEX Options").[3]

While changes to the Exchange's Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated this proposal to be effective for trades settling on or after June 30, 2010.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqtrader.com/micro.aspx?id=PHLXfilings,* at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A FLEX option is a customized option that provides parties to the transaction with the ability to fix terms including the exercise style, expiration date, and certain exercise prices. *See* Exchange Rule 1079. FLEX Options are a trademark of the Chicago Board Options Exchange.

Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose.

The purpose of the proposed rule change is to establish a new fee for equity options transactions executed pursuant to Exchange Rule 1079 ("FLEX equity options"). The Exchange believes that the proposed fee reduction for trading FLEX equity options will encourage members to trade additional FLEX equity options contracts on the Exchange, resulting in additional order flow to the Exchange. Currently, the fees which members are assessed when trading FLEX equity options are the standard equity option fees.

Currently, members who trade FLEX equity options are assessed the standard equity options fees delineated in Section II of the Fee Schedule. The Exchange is proposing to reduce transaction fees to $0.10 per contract side for FLEX equity options for all participants, except Customers.[4] Specifically, the Exchange proposes to assess a $.10 transaction charge on Professionals [5], Specialists [6], Registered Options Traders [7], Streaming Quote Traders ("SQT") [8], Remote Streaming Quote Traders ("RSQT") [9], Broker-Dealers and Firms. Customers would continue to remain free in FLEX equity options as they currently are in equity option products.

The Exchange currently waives the Firm equity options transaction fees for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account.[10] Similar to the equity option fees, which are currently subject to the aforementioned waiver, the Exchange would continue to apply the waiver to members executing facilitation orders pursuant to Exchange Rule 1064 to FLEX equity option transactions.

While changes to the Exchange's Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated this proposal to be effective for trades settling on or after June 30, 2010.

2. Statutory Basis.

The Exchange believes that its proposal to amend its Fee Schedule is consistent with section 6(b) of the Act [11] in general, and furthers the objectives of section 6(b)(4) of the Act [12] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. The Exchange believes that the proposed fees for FLEX options are equitable and reasonable because all participants will equally be assessed $.10 per contract and Customers will continue to remain free for equity options transactions executed pursuant to Exchange Rule 1079.

Additionally, the Exchange's proposal to extend the current waiver for members executing facilitation orders pursuant to Exchange Rule 1064 to FLEX equity options is reasonable and equitable because it would continue to allow members the benefit of a waiver they receive today.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [13] and paragraph (f)(2) of Rule 19b–4 [14] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Phlx-2010–85 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx-2010–85. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

[4] At this time the Exchange is not proposing to otherwise amend its equity option fees.

[5] Rule 1000(b)(14) provides in relevant part: "The term "professional" means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[6] A Specialist is an Exchange member who is registered as an options specialist pursuant to rule 1020(a).

[7] A Registered Option Trader is defined in Exchange Rule 1014(b) as a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. A ROT includes a SQT, a RSQT and a Non-SQT, which by definition is neither a SQT or a RSQT. *See* Exchange Rule 1014 (b)(i) and (ii).

[8] An SQT is an Exchange Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically through an electronic interface with AUTOM via an Exchange approved proprietary electronic quoting device in eligible options to which such SQT is assigned. *See* Exchange Rule 1014(b)(ii)(A).

[9] An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. *See* Exchange Rule 1014(b)(ii)(B).

[10] The waiver does not apply to orders where a member is acting as agent on behalf of a non-member. *See* Securities Exchange Act Release No. 60477 (August 11, 2009), 74 FR 41777 (August 18, 2009) (SR–Phlx-2009–67).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–Phlx-2010–85 and should be submitted on or before July 16, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15360 Filed 6–24–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62316; File No. SR–ISE–2010–15]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, Related to the Price Improvement Mechanism

June 17, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 28, 2010, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the Exchange. On June 10, 2010, the Exchange filed Amendment No. 1 to the proposed rule change. On June 17, 2010, the Exchange filed Amendment No. 2 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment Nos. 1 and 2, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 723 to allow Crossing Transactions to be entered into the Price Improvement Mechanism ("PIM") at a price that matches the ISE BBO in certain circumstances. The text of the proposed rule change is as follows (deletions are in [brackets]; additions are in italics):

* * * * *

Rule 723. Price Improvement Mechanism for Crossing Transactions

(a) No change.

(b) Crossing Transaction Entry. A Crossing Transaction is comprised of the order the Electronic Access Member represents as agent (the "Agency Order") and a counter-side order for the full size of the Agency Order (the "Counter-Side Order"). The Counter-Side Order may represent interest for the Member's own account, or interest the Member has solicited from one or more other parties, or a combination of both.

(1) *Except as provided in Supplementary Material.08 below,* [A] *a* Crossing Transaction must be entered only at a price that is better than the ISE best bid or offer ("ISE BBO") and equal to or better than the national best bid or offer ("NBBO").

(2) and (3) no change.

(c) and (d) no change.

Supplementary Material to Rule 723

.01 through .07 no change.

.08 When the ISE BBO is equal to the NBBO, a Crossing Transaction may be entered where the price of the Crossing Transaction is equal to the ISE BBO if the Agency Order is on the opposite side of the market from the ISE BBO. In this case, the Agency Order will be automatically executed against the ISE BBO. If the Agency Order is not fully executed after the ISE BBO is fully exhausted and is no longer at a price equal to the Crossing Transaction, the PIM will be initiated for the balance of the order as provided in Rule 723. With respect to any portion of an Agency Order that is automatically executed against the ISE BBO pursuant to this paragraph .08, the exposure requirements contained in Rule 717(d) and (e) will not be satisfied for the fact that the member utilized the Price Improvement Mechanism.

* * * * *

Rule 811. Directed Orders

(a) through (d) no change.

(e) Except as provided in this paragraph (e), when a Directed Order is released, the System processes the order in the same manner as any other order received by the Exchange. Directed Orders will not be automatically executed at a price that is inferior to the NBBO and, except as provided in subparagraph (e)(3), will be handled pursuant to Rule 803(c)(2) when the ISE best bid or offer is inferior to the NBBO.

(1) A marketable Directed Order *that is released, or entered into the PIM pursuant to Supplemental Material .08 to Rule 723,* will be matched against orders and quotes according to Rule 713 except that, at any given price level, the Directed Market Maker will be last in priority.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

PIM is a process by which a member can provide price improvement opportunities for a transaction wherein the member seeks to execute an agency order as principal or execute an agency order against a solicited order (a Crossing Transaction").[4] Currently under Rule 723, a Crossing Transaction may only be entered at a price that is better than the ISE best bid or offer ("ISE BBO") and equal to or better than the national best bid or offer ("NBBO").

The Exchange proposes to modify PIM so that members may enter transactions at a price that matches the ISE BBO and the NBBO if the agency order is on the opposite side of the market from the ISE BBO. In this case, the agency order will be automatically executed against the ISE BBO in the same manner as marketable orders entered directly. If the agency order is not fully executed after the ISE BBO is

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 2 replaces and supersedes the original filing and Amendment No. 1 thereto in their entirety.

[4] ISE Rule 723(a).

fully exhausted and is no longer at a price equal to the Crossing Transaction, the PIM will be initiated for the balance of the order as provided in Rule 723.

Currently, the Exchange automatically rejects a Crossing Transaction that does not improve upon the ISE BBO so that the transaction does not occur ahead of interest on the book. However, in the case where the agency order is marketable against the best price on the ISE, we believe it would benefit the agency order to receive an execution against the available liquidity on the ISE book rather than being rejected. Moreover, members have indicated that it would be preferable to receive an execution in this instance, as such treatment would better serve their customers.

Any portion of an order that is immediately executed against the ISE BBO would be subject to the exposure requirements contained in Rule 717(d) and (e). Rule 717(d) and (e) require members to expose certain orders for at least one second before executing such orders as principal or against orders solicited from a broker-dealer. This order exposure requirement can be satisfied by utilizing the Price Improvement Mechanism because the mechanism automatically exposes orders for one second. In the case of an automatic execution of an agency order against the ISE BBO under the proposal, there would be no exposure, so utilizing the Price Improvement Mechanism will not satisfy the requirements of Rule 717(d) and (e) in this case.[5]

Pursuant to ISE Rule 811, an order may be directed to a market maker, which must either "release" the order into the system or enter the order into the PIM within three seconds. Rule 811 contains a number of safeguards with respect to the handling of directed orders by directed market makers, including modified execution priority rules when directed orders are entered by the directed market maker directly that assure all other market participants are given an opportunity to trade with the directed order before the directed market maker. The proposed rule change to allow agency orders entered into PIM to be automatically executed upon entry if they are marketable will not affect the execution of directed orders under Rule 811 in any manner. As stated in the filing, the agency order will be automatically executed against the ISE BBO in the same manner as marketable orders entered directly, *i.e.,* "released" by the directed market maker under Rule 811.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act") for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism for a free and open market and a national market system, and in general, to protect investors and the public interest. In particular, the proposal will provide execution opportunities for marketable agency orders entered into the PIM in the same manner as marketable orders entered directly. This will provide better execution opportunity for agency orders entered into the PIM, as well as for interest at the ISE BBO, because they will be automatically executed instead of being rejected.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2010–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–ISE–2010–15. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 am and 3 pm. Copies of such filing also will be available for inspection and copying at the principal office of ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No.

[5] The Exchange conducts surveillance for compliance with the exposure requirement of Rule 717(d) and (e). Automatic execution of orders against the ISE BBO through the PIM under this proposal will be included in this surveillance.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, or such shorted time as designated by the Commission. The Exchange provided a copy of this rule filing to the Commission at least five business days prior to the date of this filing.

SR–ISE–2010–15 and should be submitted on or before July 16, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15357 Filed 6–24–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62326; File No. SR–NASDAQ–2010–068]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Establish a Revenue Sharing Program With Correlix, Inc.

June 18, 2010.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on June 8, 2010, The NASDAQ Stock Market LLC (the "Exchange" or "NASDAQ") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASDAQ is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to establish a revenue sharing program with Correlix, Inc. ("Correlix"). The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com*, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is filing a proposed rule change to establish a revenue sharing program with Correlix.[3] NASDAQ has entered into an agreement with Correlix to provide to users of the NASDAQ Market Center real-time analytical tools to measure the latency of orders to and from that System. Under the agreement, NASDAQ will receive 30% of the total monthly subscription fees received by Correlix from parties who have contracted directly with Correlix to use their RaceTeam latency measurement service for the NASDAQ Market Center. NASDAQ will not bill or contract with any Correlix RaceTeam customer directly.

Pricing for the Correlix RaceTeam product for the NASDAQ market varies depending on the number of unique MPIDs and ports selected by the customer for monitoring by Correlix. For NASDAQ (including the NASDAQ Options Market), the fee will be an initial $3,000 monthly base fee for the first unique MPID monitored. For each additional unique MIPD [sic] sought to be monitored, an additional monthly charge of $1,000 will be assessed. The monthly price for each unique MPID includes the monitoring of up to 25 NASDAQ port connections associated with that particular MPID. Customers that wish to exceed 25 ports per-MPID for monitoring can purchase additional 25 port blocks for an additional fee of $1000 per month per MPID.

Under the program, Correlix will see an individualized unique NASDAQ-generated identifier that will allow Correlix RaceTeam to determine round trip order time,[4] from the time the order reaches the NASDAQ extranet, through the NASDAQ matching engine, and back out of the NASDAQ extranet. The RaceTeam product offering does not measure latency outside of the NASDAQ extranet. The unique identifier serves as a technological information barrier so that the RaceTeam data collector will only be able to view data for Correlix RaceTeam subscriber firms related to latency. Correlix will not see subscriber's individual order detail such as security, price or size. Individual RaceTeam subscribers' logins will restrict access to only their own latency data. Correlix will see no specific information regarding the trading activity of non-subscribers.

NASDAQ believes that above arrangement will provide users of the NASDAQ Market Center greater transparency into the processing of their trading activity and allow them to make more efficient trading decisions.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of section 6 of the Act,[5] in general, and with sections 6(b)(5) of the Act,[6] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, the proposal will provide greater transparency into trade and information processing and thus allow market participants to make better-informed and more efficient trading decisions.

In addition, NASDAQ believes that the proposed rule change is consistent with the provisions of section 6 of the Act,[7] in general, and with section 6(b)(4) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls. In particular, NASDAQ notes that it operates in a highly competitive market in which market participants can readily direct orders to competing venues and that use of the Correlix RaceTeam product is completely voluntary. Further, NASDAQ makes the RaceTeam product uniformly available pursuant to a standard non-discriminatory pricing schedule offered by Correlix.

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] If approved, this program shall commence upon termination of the free 60-day trial period for Correlix servives [sic] proposed in SR–NASDAQ–2009–069 [sic].

[4] The product measures latency of orders whether the orders are rejected, executed, or partially executed.

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2010–068 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2010–068. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2010–068 and should be submitted on or before July 16, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15361 Filed 6–24–10; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62318; File No. SR–FINRA–2010–021]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Amend FINRA Rule 8210 To Require Information Provided via Portable Media Device Be Encrypted

June 17, 2010.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and rule 19b–4 thereunder,[2] notice is hereby given that on June 2, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 8210 to require that information provided via portable media device pursuant to a request under the rule be encrypted.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA Rule 8210 (Provision of Information and Testimony and Inspection and Copying of Books) confers on FINRA staff the authority to compel a member, person associated with a member, or other person over whom FINRA has jurisdiction, to produce documents, provide testimony, or supply written responses or electronic data in connection with an investigation, complaint, examination or adjudicatory proceeding. The rule applies to all members, associated persons, and other persons over which FINRA has jurisdiction, including former associated persons subject to FINRA's jurisdiction as described in the FINRA By-Laws.[3] FINRA Rule 8210(c) provides that a member's or person's failure to provide information or testimony or to permit an inspection and copying of books, records, or accounts is a violation of the rule.

FINRA is proposing to amend FINRA Rule 8210 to require that information provided via a portable media device pursuant to a request under the rule be encrypted, as discussed further below.

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[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* FINRA By-Laws, Article V, Section 4(a) (Retention of Jurisdiction).

Requiring such information to be encrypted will help ensure that such information, which in many instances includes individuals' personal information, is protected from unauthorized or other improper use.[4]

Frequently, members and persons that respond to requests pursuant to FINRA Rule 8210 provide information in electronic format. Because of the size of the electronic files, persons often provide information in electronic format using a portable media device such as a CD–ROM, DVD or portable hard drive.[5] In many instances, the response contains personal information that, if accessed by an unauthorized person, could be used inappropriately. For example, a response may include a person's first and last name, or first initial and last name, in combination with that person's: (1) Social security number; (2) driver's license, passport or government-issued identification number; or (3) financial account number (including but not limited to number of a brokerage account, debit card, credit card, checking account, or savings account). If such personal information were to be intercepted by an unauthorized third party, it could be used improperly.

Data security issues regarding personal information have become increasingly important in recent years.[6] In this regard, FINRA believes that requiring persons to encrypt information on portable media devices provided to FINRA in response to FINRA Rule 8210 requests will help ensure that personal information is protected from improper use by unauthorized third parties.

The proposed rule change would require that responding information from a portable media device must be "encrypted", *i.e.,* the data must be encoded into a form in which meaning cannot be assigned without the use of a confidential process or key. To help ensure that encrypted information is secure, persons providing encrypted information to FINRA via a portable media device would be required: (1) To use an encryption method that meets industry standards for strong encryption; and (2) to provide FINRA staff with the confidential process or key regarding the encryption in a communication separate from the encrypted information itself (*e.g.,* a separate e-mail, fax or letter).

FINRA will announce the effective date of the proposed rule change in a regulatory notice to be published no later than 60 days following Commission approval. The effective date will be 30 days following publication of the regulatory notice announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[7] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will help ensure that personal information provided in response to a request under FINRA Rule 8210 via a portable media device is protected from improper use by unauthorized third parties. Thus, FINRA believes the proposed rule change will help protect investors consistent with the statutory provisions noted above.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2010–021 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2010–021. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official

[4] FINRA has emphasized that its members have an obligation under existing laws to protect confidential customer records and information pursuant to the requirements of SEC Regulation S–P. *See, e.g., Notice to Members* 05–49 (Safeguarding Confidential Customer Information).

[5] The proposed rule change defines "portable media device" as a storage device for electronic information, including but not limited to a flash drive, CD–ROM, DVD, portable hard drive, laptop computer, disc, diskette, or any other portable device for storing and transporting electronic information.

[6] For example, some jurisdictions, including Massachusetts and Nevada, have recently enacted legislation that establishes minimum standards to safeguard personal information in electronic records. *See, e.g.,* Commonwealth of Massachusetts, 201 CMR 17.00 (Standards for the Protection of Personal Information of Residents of the Commonwealth), effective March 1, 2010; State of Nevada, NRS 603A.215 (Security Measures for Data Collector that Accepts Payment Card; Use of Encryption; Liability for Damages; Applicability), effective January 1, 2010. These laws contain potential penalties against persons and entities for failures to adequately safeguard electronic information containing personal information.

[7] 15 U.S.C. 78*o*–3(b)(6).

business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–FINRA–2010–021 and should be submitted on or before July 16, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–15359 Filed 6–24–10; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice: 7067]

60-Day Notice of Proposed Information Collection: Form DS–1622, DS–1843, DS–1622P, and DS–1843P: Medical History and Examination for Foreign Service, OMB 1405–0068

ACTION: Notice of request for public comments.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Medical History And Examination For Foreign Service.
- *OMB Control Number:* 1405–0068.
- *Type of Request:* Revision of Currently Approved Collection.
- *Originating Office:* Office of Medical Services, M/MED/C/MC.
- *Form Number:* DS–1622, DS–1843, DS–1622P, and DS–1843P.
- *Respondents:* Foreign Service Officers, State Department Employees, Other Government Employees and Family Members.
- *Estimated Number of Respondents:* 7,500 per year.
- *Estimated Number of Responses:* 7,500 per year.
- *Average Hours per Response:* 1.0 hours per response.
- *Total Estimated Burden:* 7,500 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Mandatory.

DATES: The Department will accept comments up to August 24, 2010.

ADDRESSES: You may submit comments by any of the following methods:

- *E-mail: silligsp@state.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail (paper, disk, or CD–ROM submissions):* Department of State, Office of Medical Services, SA–1 Room L–101 (*Attn:* Susan Willig), 2401 E St., NW., Washington, DC 20522–0101.
- *Fax:* 202–663–1934.
- If you have access to the Internet, you can view this notice and provide comments by going to *http://www.regulations.gov/search/Regs/home.html#home.*

You must include the DS form number (if applicable), information collection title, and OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed information collection and supporting documents, to Susan Willig, Department of State, Office of Medical Services, SA–1 Columbia Plaza Room L101 (*Attn:* Susan Willig), 2401 E St., NW., Washington DC, 20052–0101, who may be reached on 202–663–1754 or *willigsp@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

Abstract of proposed collection: Form DS–1622(P) and DS–1843(P) are designed to collect medical information to provide medical providers with current and adequate information to base decisions on medical suitability for a federal employee and family members for assignment abroad. DS–1622 is for Children 11 years and under. DS–1843 is for Children 12 years and older. All forms will allow medical personnel to verify that there are sufficient medical resources at a diplomatic mission abroad to maintain the health and fitness of the individual and family members within the Department of State medical program.

Methodology: The information collected will be collected through the use of an electronic forms engine or by hand written submission using a pre-printed form.

Dated: June 22, 2010.

Sharon Ludan,

Executive Director, Office of Medical Services, Department of State.

[FR Doc. 2010–15475 Filed 6–24–10; 8:45 am]

BILLING CODE 4710–36–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[DOT–OST–2010–0025]

Notice of Request for Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended) this notice announces that the Information Collection Request (ICR) abstracted below which will be forwarded to the Office of Management and Budget (OMB) for renewal. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on February 2, 2010 (75 FR 5369). No comments were received.

DATES: Comments on this notice must be received by July 26, 2010 and sent to the attention of the DOT/OST Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503 or *oira_submission@omb.eop.gov* (e-mail).

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Ashby, Office of the Secretary, Office of Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 Seventh St., SW., Washington, DC 20590, (202) 366–9310 (voice) (202) 366–9313 (fax) or at *bob.ashby@ost.dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Report of DBE Awards and Commitments.

OMB Control Number: 2105–0510.

[8] 17 CFR 200.30–3(a)(12).

Affected Public: DOT financially-assisted State and local transportation agencies.

Frequency of response: once/twice a year.

Estimated Total Burden on Respondents: 1,311,000.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, DC, on June 21, 2010.

Robert C. Ashby,

Deputy Assistant General Counsel for Regulation and Enforcement.

[FR Doc. 2010–15419 Filed 6–24–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Request Extension From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Certification Procedures for Products and Parts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. CFR part 21 prescribes certification standards for aircraft, aircraft engines, propellors, products, and parts. The information collected is used to determine compliance and applicant eligibility.

DATES: Please submit comments by August 24, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Certification Procedures for Products and Parts.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0018.

Form(s): 8110–12, 8130–1, 8130–3, 8130–6, 8130–9, 8130–12.

Affected Public: A total of 13,339 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 17 minutes per response.

Estimated Annual Burden Hours: An estimated 30,487 hours annually.

Abstract: CFR part 21 prescribes certification standards for aircraft, aircraft engines, propellors, products, and parts. The information collected is used to determine compliance and applicant eligibility. The respondents are aircraft parts designers, manufacturers, and aircraft owners.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 21, 2010.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–15424 Filed 6–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval of a new information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 18, 2010, vol. 75, no. 52, page 13204. This research is important for establishing the scientific basis for air tour management policy decisions in the National Parks as mandated by the National Parks Air Tour Management Act of 2000.

DATES: Please submit comments by July 26, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Scott at *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Human Response to Aviation Noise in National Parks.

Type of Request: New collection.

OMB Control Number: 2120–XXXX.

Form(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 16,800 Respondents.

Frequency: This information is collected one time per respondent.

Estimated Average Burden per Response: Approximately 15 minutes per response.

Estimated Annual Burden Hours: An estimated 4,200 hours annually.

Abstract: The data from this research are critically important for establishing the scientific basis for air tour management policy decisions in the National Parks as mandated by the National Parks Air Tour Management Act of 2000 (NPATMA). The research expands on previous aircraft noise dose-response work by using a wider variety of survey methods, by including different site types and visitor experiences from those previously measured, and by increasing site type replication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information

is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 21, 2010.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–15422 Filed 6–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 13, 2010, vol. 75, no. 70, pages 18940–18941. 14 CFR part 61 prescribes certification standards for pilots, flight instructors, and ground instructors. The information collected is used to determine compliance with applicant eligibility.

DATES: Please submit comments by July 26, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Scott at *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Certification: Pilots and Flight Instructors.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0021.

Forms(s): FAA Form 8710–1.

Affected Public: An estimated 138,000 Respondents

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 2.15 hours per response.

Estimated Annual Burden Hours: An estimated 302,160 hours annually.

Abstract: 14 CFR part 61 prescribes certification standards for pilots, flight instructors, and ground instructors. The information collected is used to determine compliance with applicant eligibility.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 21, 2010.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–15426 Filed 6–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 13, 2010, Vol. 75, No. 70, page 18941. 49 U.S.C. Section 44718 states that the Secretary of Transportation shall require notice of structures that may affect navigable airspace, air commerce, or air capacity.

DATES: Please submit comments by July 26, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Scott at *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Notice of Proposed Construction or Alteration, Notice of Actual Construction or Alteration, Project Status Report.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0001.

Form(s): FAA Forms 7460–1, 7460–2.

Affected Public: An estimated 107,000 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 12 minutes per response.

Estimated Annual Burden Hours: An estimated 21,760 hours annually.

Abstract: 49 U.S.C. 44718 states that the Secretary of Transportation shall require notice of structures that may affect navigable airspace, air commerce, or air capacity. These notice requirements are contained in 14 CFR part 77.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 21, 2010.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–15429 Filed 6–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on April 13, 2010, vol. 75, no. 70, page 18940. Enplanement data collected from air taxi and commercial operators are required for the calculation of air carrier airport sponsor apportionments as specified by the Airport Improvement Program (AIP), and 49 U.S.C. part A, Air Commerce Safety, and part B, Airport Development and Noise.

DATES: Please submit comments by July 26, 2010.

FOR FURTHER INFORMATION CONTACT: Carla Scott at *Carla.Scott@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Air Taxi and Commercial Operator Airport Activity Survey.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0067.

Forms(s): Form 1800–31.

Affected Public: An estimated 300 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 1.5 hours per response.

Estimated Annual Burden Hours: An estimated 450 hours annually.

Abstract: Enplanement data collected from air taxi and commercial operators are required for the calculation of air carrier airport sponsor apportionments as specified by the Airport Improvement Program (AIP), and 49 U.S.C. part A, Air Commerce Safety, and part B, Airport Development and Noise.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 21, 2010.

Carla Scott,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2010–15427 Filed 6–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by the California Department of Transportation (Caltrans), pursuant to 23 U.S.C. 327, and Other Federal Agencies.

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, Towne Pass Rockfall project between post miles 65.9 to 66.5 within Death Valley National Park in the County of Inyo, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 22, 2010. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Kirsten Helton, Senior Environmental Planner, California Department of Transportation (Caltrans), 2015 East Shields Avenue, Suite 100, Fresno, CA 93726; weekdays 8 a.m. to 5 p.m. (Pacific time); telephone (559) 243–8224; (please note office closed 1st through 3rd Fridays due to state furloughs), *e-mail: Kirsten_helton@dot.ca.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: The Towne Pass Rockfall Project. Caltrans proposes to improve safety by realigning a segment of State Route 190 from 10.5 miles east of Panamint Springs (post mile 65.9) to 10.0 miles west of Wildrose Road (post mile 66.5) within Death Valley National Park in Inyo County, California. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Environmental Assessment (EA)/Finding of No Significant Impact (FONSI) for the project, approved on April 30, 2010. The EA/FONSI and other documents are available by contacting Caltrans at the address provided below. The Caltrans EA/FONSI can be viewed at Caltrans District 9 office at 500 South Main Street, Bishop, CA 93514; the Death Valley National Park Visitor Center (Furnace Creek) at the Junction of State Route 178 and State Route 190; and at the Lone Pine Library at 127 W. Bush Street, Lone Pine, CA 93545.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; and Federal-Aid Highway Act [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Landscape and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].

4. *Wetlands and Water Resources:* Safe Drinking Water Act [42 U.S.C. 300(f)–300(j)(6)]; and Wetlands Mitigation [23 U.S.C. 103(b)(6)(m) and 133(b)(11)].

5. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; and Migratory Bird Treaty Act [16 U.S.C. 703–712].

6. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archaeological and Historic Preservation Act [16 U.S.C. 469–469c]; Archaeological Resources Protection Act of 1979 [16 U.S.C. 470aa *et seq.*]; and Native American Graves Protection and Repatriation Act [25 U.S.C. 3001–3013].

7. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; Farmland Protection Policy Act [7 U.S.C. 4201–4209]; and The Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended.

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601–9675]; Superfund Amendments and Reauthorization Act of 1986; and Resource Conservation and Recovery Act [42 U.S.C. 6901–6992(k)].

9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of the Cultural Environment; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; and E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: June 21, 2010.

Cindy Vigue,

Director, State Programs, Federal Highway Administration, Sacramento, California.

[FR Doc. 2010–15478 Filed 6–24–10; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2010–0027]

Livability Initiative Under Special Experimental Project No. 14

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The FHWA is announcing a livability initiative to harmonize and coordinate the Federal-aid highway program with grant-in-aid programs administered by the Department of Housing and Urban Development (HUD) and the Environmental Protection Agency (EPA). Under this initiative, the FHWA will utilize Special Experimental Project No. 14 (SEP–14) to permit, on a case-by-case basis, the application of HUD requirements on Federal-aid highway projects that may otherwise conflict with Federal-aid highway program requirements. One such requirement is contained in HUD's Section 3 Program, the goal of which is to provide training, employment and contracting opportunities to low and very low income persons residing within the metropolitan area (or nonmetropolitan county) in which the project is located and businesses that substantially employ such persons. The purposes of this SEP–14 initiative is to evaluate the contracting efficiencies and impacts on competition in harmonizing conflicting FHWA and HUD contracting requirements, and to further the goals of the DOT, HUD, and EPA partnership on sustainable communities. *This initiative will not result in the diversion of highway funds to housing projects.* The statutory funding eligibility requirements must continue to be met in order to use Federal-aid highway funds.

DATES: This new experimental project is being initiated on June 25, 2010.

FOR FURTHER INFORMATION CONTACT: For technical information: Mr. Gerald Yakowenko, Office of Program Administration (HIPA), (202) 366–1562. For legal information: Mr. Michael Harkins, Office of the Chief Counsel (HCC–30), (202) 366–4928, Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

Interested parties may access the comments received by FHWA by going online and entering the following Web address: *http://www.regulations.gov*, which is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at *http://www.archives.gov/federal_register* and the Government Printing Office's Web page at *http://www.gpoaccess.gov.*

Background

On March 30, 2010, the FHWA published a notice (75 FR 15767) regarding the FHWA's proposal to permit, on a case-by-case basis, the application of HUD requirements on Federal-aid highway projects that may otherwise conflict with Federal-aid highway program requirements, such as HUD's Section 3 Program that requires employment opportunities be provided to low and very low income persons residing within the area in which the project is located. This SEP–14 initiative is being advanced by the FHWA in order to evaluate the potential efficiencies that may be realized by harmonizing FHWA and HUD contracting requirements for jointly funded projects. Additionally, this initiative furthers the June 16, 2009, DOT, HUD, and EPA Interagency Partnership for Sustainable Communities. One of the goals of this partnership is to better align DOT, HUD, and EPA programs to encourage better coordination and location efficiency in housing and transportation choices. More information on the partnership can be found at *http://www.fhwa.dot.gov/livability/*and *http://www.epa.gov/smartgrowth/partnership/index.html.*

SEP–14

In 1988, a Transportation Research Board (TRB) task force, comprised of representatives from all segments of the highway industry, was formed to evaluate Innovative Contracting Practices. This TRB task force requested that the FHWA establish a project to evaluate and validate certain findings of the task force regarding innovative contracting practices, which are documented in Transportation Research Circular Number 386, titled, "Innovative Contracting Practices," dated December 1991. In response, the FHWA initiated Special Experimental Project No. 14 (SEP–14) pursuant to the authority granted to the Secretary under 23 U.S.C. 502(a). (*http://fhwa.dot.gov/programadmin/contracts/021390.cfm*).

The SEP–14 strives to identify, evaluate, and document innovative contracting practices that have the potential to reduce the life cycle cost of projects, while at the same time, maintain product quality. Under SEP–14, the FHWA has the flexibility to experiment with innovative approaches to contracting. However, SEP–14 does not seek alternatives to the open competitive bid process.

The innovative practices originally approved for evaluation were: Cost-plus-time bidding, lane rental, design-build contracting, and warranty clauses. Forty-one States have used at least one of the innovative practices under SEP–14. Based on their collective experiences, FHWA decided that cost-plus-time bidding, lane rental, and warranty clauses were techniques suitable for use as non-experimental, operational practices and in 1995 these were made regular Federal-aid procedures. Additionally, design-build contracting in the Federal-aid highway program was originally conducted under SEP–14 until Congress modified 23 U.S.C. 112 in section 1307 of the Transportation Equity Act for the 21st Century to permanently authorize the use of this contracting method. The SEP–14 continues to be used to test and evaluate experimental contracting practices.

Discussion of Comments

Summary

On Tuesday, March 30, 2010, the FHWA published a notice and requested comment on a proposed contracting approach to be evaluated under SEP–14. Specifically, the contracting approach proposed seeks to harmonize FHWA and HUD contracting requirements by permitting States to apply HUD's local hiring provisions, which are required by HUD's Section 3 Program as a condition to using HUD's Community Development Block Grant (CDBG) funding. The FHWA proposes to advance this SEP–14 approach pursuant to the DOT/HUD/EPA Sustainable Communities Partnership.

The FHWA received 12 comments in response to this notice. Of these comments, nine were supportive (in varying degrees), one was neutral, and one was opposed. As a result of these comments, only one change is recommended for incorporation into the final notice. This change comes from the comment made by the National Housing Law Project, who suggested that the FHWA notify HUD whenever a SEP–14 application is made by a State DOT.

Identification and Response to Comments

The following identifies and summarizes the major comments submitted by all the commenters in response to the March 30 notice, as well as the FHWA response:

1. California Department of Transportation (Caltrans)

The Caltrans states that it would support the proposed SEP–14 approach if FHWA's regulations are amended to permit geographic preferences.

FHWA Response: The purpose of this experiment is to evaluate the effects, including impacts on competition, of applying HUD contracting requirements to FHWA projects. Once the FHWA determines that enough data has been obtained, the FHWA will consider to what extent a change in the regulations may be warranted.

2. Pennsylvania Department of Transportation (PennDOT)

The PennDOT supports utilizing SEP–14 to permit the use of HUD's Section 3 Program on joint FHWA/HUD projects. Doing so would enable both PennDOT and the Pennsylvania Department of Community and Economic Development to maximize the use of both agencies' Federal dollars while reducing the financial burden on municipalities when undertaking these projects. The PennDOT notes that they have abandoned the use of CDBG funds on two projects because of the conflicting requirements between the FHWA and HUD programs.

The PennDOT further notes an additional conflict between FHWA and HUD requirements. Specifically, the FHWA applies a disadvantaged business enterprise (DBE) program where there is a single goal for all disadvantaged businesses while HUD applies a minority and woman owned business enterprise (MBE/WBE) program where there are separate goals for minority and women owned businesses. The PennDOT recommends the application of the FHWA's DBE program since the FHWA would typically have the larger financial interest in the project.

The PennDOT further recommends that SEP–14 approval be granted for a group or class of projects for administrative convenience.

FHWA Response: The PennDOT provides a good example of the type of problem the FHWA intends to address with this SEP–14 approach. However, the FHWA is not proposing any variations to the DBE program and does not have authority to change HUD's MBE/WBE program. Since most contractors would likely have certifications for both DOT's DBE program and HUD's MBE/WBE program, the FHWA believes that both programs' program can be consistently applied to joint FHWA/HUD projects. Lastly, the project or projects for which SEP–14 approval will be granted will be determined by the scope of the State's work plan in which the State may propose to use the SEP–14 approach for one or more projects. However, the FHWA does not believe that approval should be granted for an entire class or category of projects.

3. National Housing Conference (NHC)

The NHC supports the use of SEP–14 to reduce conflicts that would jeopardize the application of HUD's Section 3 Program to joint FHWA/HUD projects as well as the interest to combine HUD and DOT funding to advance the goals of the Partnership for Sustainable Communities. The NHC further agrees with the requirement for States to address the degree to which the project enhances livability and sustainability in their work plans, but is concerned with the omission of a reference to the importance of affordable housing in advancing livability and sustainability. As such, NHC suggests that the States address the following question in their work plans: "Will the project reduce families' combined costs for housing and transportation?" Additionally, NHC suggests asking the States whether their transportation and land use plans have been coordinated with affordable housing activities.

FHWA Response: The FHWA appreciates NHC's comments and fully supports the goals of the Partnership for Sustainable Communities. However, the FHWA declines to incorporate NHC's specific suggestions. While affordable housing is part of the overall goal of the Partnership for Sustainable Communities, the FHWA's efforts under the Partnership must be consistent with the agency's mission, which is to administer the Federal-aid highway program. Since this SEP–14 approach only concerns the administration of the Federal-aid highway program, requirements and data related to affordable housing would be beyond the scope of the experiment.

4. Transportation Equity Network (TEN)

The TEN strongly supports the use of SEP–14 to harmonize conflicting FHWA and HUD requirements. However, TEN suggests that the Federal-aid highway program provide training and employment opportunities to low and very low income persons residing within the metropolitan area in which

the project is located. The TEN also suggests strengthening the criteria for evaluating how projects enhance livability, such as increasing economic development and promoting access to job opportunities.

FHWA Response: The Federal-aid highway program already includes an On-the-Job Training Program under which State DOTs are required to offer apprenticeship and training programs targeted to move women, minorities, and socially and economically disadvantaged persons into journey level positions, and an On-the-Job Training and Supportive Services Program under which $10,000,000 every year is made available for training. For more information, please see: *http://www.fhwa.dot.gov/civilrights/eeo.htm*. Also, the FHWA declines to expand the livability criteria as suggested by TEN. The FHWA believes the livability criteria set out in the notice are sufficient for purposes of the SEP–14 approach to be conducted.

5. American Federation of Labor—Congress of Industrial Organizations, Building and Construction Trades Department (BCTD)

The BCTD supports the SEP–14 approach and the goals established for the Partnership for Sustainable Communities. However, BCTD does not feel that SEP–14 is necessary to allow application of HUD's Section 3 Program requirements. Rather, BCTD urges the Secretary to amend the regulations. The BCTD also asserts that the FHWA routinely denies requests to use project labor agreements (PLAs) because union hiring hall procedures, which confer a geographic preference for employment, are contrary to FHWA requirements.

FHWA Response: The FHWA has long maintained that local hiring preferences are inconsistent with the requirement in 23 U.S.C. 112 to require such plans and specifications and methods of bidding as are effective in securing competition. With this SEP–14 approach, the FHWA is interested in examining the potential impacts on competition and whether competition, cost, and overall project efficiency will be enhanced by allowing the HUD funded work and FHWA funded work to be advertised and awarded as part of a single contract. Once we determine that we have enough data, we will consider to what extent a change in the regulations may be warranted.

6. National Housing Law Project (NHLP)

The NHLP is generally supportive the SEP–14 approach. The NHLP submitted lengthy comments, but they are generally concerned with ensuring that HUD's Section 3 requirements are met and further enhance the livability criteria of the SEP–14 work plans. With respect to the livability criteria, NHLP's comments generally recommend that the SEP–14 focus more on HUD goals and incorporate the promotion equitable and affordable housing, support for existing communities, and valuing communities and neighborhoods. The NHLP also suggests that a percentage of FHWA funds be set aside for training, that the HUD CDBG and Section 3 offices be informed when a SEP–14 work plan is submitted.

FHWA Response: With respect to NHLP's comments to expand the livability criteria to focus more on HUD goals and to set aside funds for training, the FHWA declines to do so for the reasons discussed in response to NHC's and TEN's comments: the promotion of affordable housing, while a laudable goal, is not the focus of FHWA's mission and the Federal-aid highway program already administers a training program. With respect to enforcement of HUD's Section 3 requirements, HUD will continue to administer the CDBG Program and will ensure that the applicable requirements are met. However, the FHWA agrees with NHLP's comment regarding the notification of HUD regarding the receipt of a SEP–14 work plan and will work with HUD to develop an appropriate protocol.

7. Transportation for America (TFA)

The TFA expressed strong support for the SEP–14 approach. The TFA suggests strengthening the criteria for evaluating livability by requiring applicants to include housing components and to add explicit language regarding the eligibility of using Federal funds for On-the-Job Training and Apprenticeship Programs. The TFA further suggests that DOT be explicit about how this SEP–14 eligibility furthers the Nation's livability goals.

FHWA Response: With respect to TFA's comments to strengthen the livability criteria by including housing components and to clarify eligibility for training, the FHWA declines to do so for the reasons discussed in response to NHC's, TEN's, and NHLP's comments: the promotion of affordable housing, while a laudable goal, is not the focus of FHWA's mission and the Federal-aid highway program already administers a training program through which training activities will be conducted. Additionally, the FHWA believes that the existing livability criteria is sufficient to show how the project will further livability from a transportation perspective.

8. Brown and Mitchell, Inc.

Brown and Mitchell, Inc., (Brown and Mitchell) a consulting engineering firm in Mississippi, supports the SEP–14 proposal to harmonize FHWA and HUD contracting requirements. Brown and Mitchell represents local communities who have been required to procure and award construction projects separately because of the conflicting requirements in FHWA and HUD regulations. Brown and Mitchell gives specific examples of two projects that had to be administered separately due to the conflict between FHWA and HUD provisions. Brown and Mitchell states that requiring projects to be undertaken under separate contracts due to conflicting regulations is a waste of time and taxpayer money in most cases because it is more efficient to procure the work under a single contract.

FHWA Response: Brown and Mitchell provides a good example of what the FHWA is trying to accomplish with this SEP–14 approach. Utilizing SEP–14, the FHWA will be able to examine the potential impacts on competition and whether competition, cost, and overall project efficiency will be enhanced by allowing the HUD funded work and FHWA funded work to be advertised and awarded as part of a single contract. Once we determine that we have enough data, we will consider to what extent a change in the regulations may be warranted.

9. Lincoln County Highway Department

The Lincoln County Highway Department (Lincoln County, Minnesota) concurs with the SEP–14 initiative, and notes that cooperation and streamlining of regulations can save money. However, the Lincoln County Highway Department expresses concern that transportation funds continue to be applied to transportation and not housing.

FHWA Response: The FHWA is not altering the eligibility requirements for Federal-aid highway funding. The underlying project subject to a SEP–14 proposal must meet existing program funding eligibility requirements.

10. Joyce Dillard

Joyce Dillard comments that the economic component of the HUD funding is critical to low income areas and that suspension of this component could be devastating.

FHWA Response: The FHWA is not proposing to alter the economic component of the HUD funding programs. Rather, the FHWA's SEP–14 initiative would permit the HUD geographic hiring preferences to be

utilized on a joint FHWA/HUD project rather than requiring separate contracts for the HUD and FHWA funded work.

11. American Road and Transportation Builders Association (ARTBA)

The ARTBA commented that, while they are supportive of efforts to ease the contracting process and reduce delay, ARTBA is concerned that using SEP–14 to projects geared toward livability is inconsistent with the purpose and goals of the SEP–14 program. The ARTBA also expresses concern that the HUD and FHWA contracting requirements are designed for distinct and different purposes in that the HUD requirements are geared toward ensuring employment and economic opportunity while FHWA's are intended to ensure cost-efficient and timely delivery of highway project. Allowing the incorporation of HUD's hiring preferences would represent a major policy change and undermine the time-tested open and competitive bidding process. Additionally, ARTBA expresses concern that transportation funds are not diverted toward non-transportation purposes, and that joint FHWA/HUD contracts could lead to participation by contractors who are not prequalified to do highway work.

FHWA Response: The primary objective of the SEP–14 initiative is to determine what contracting efficiencies can be realized by harmonizing the HUD and FHWA contracting requirements. This objective falls within the stated purpose of the SEP–14 program. As highlighted by PennDOT, who has abandoned CBDG money on two projects as a result of these conflicting requirements, and by Mitchell and Brown, who provided two examples of projects that were split into separate contracts, there appear to be disincentives for grant recipients to use CDBG funds on otherwise eligible Federal-aid highway activities and inefficiencies in forcing recipients to award separate contracts to resolve the issue. It is possible that competition can actually be enhanced when a single contract is used. The FHWA's primary intent behind this SEP–14 initiative is to evaluate the contracting efficiencies and inefficiencies associated with joint FHWA/HUD projects.

With respect to livability, it is the DOT's policy to promote projects that further livability, and the FHWA has set out some criteria for what the agency is looking for with respect to livability. We believe that the inherent nature of projects that qualify for HUD funding most likely satisfy the livability criteria. However, the fact that a project may be a livable project does not make it any less transportation oriented. As stated above, the primary purpose of this SEP–14 initiative is contracting efficiency. However, the FHWA would also like know whether these projects that are jointly funded by FHWA and HUD further livability.

With respect to ARTBA's concern about the possible diversion of transportation funding to non-transportation projects, and as explained in response to the comments from the Lincoln County Highway Department, the underlying project subject to a SEP–14 proposal must meet existing highway program funding eligibility requirements. The FHWA will not allow highway funds to be diverted to housing projects. Also, with respect to the concern that contractors who are not prequalified to do highway work may be awarded construction contracts, prequalification has always been, and continues to be, a State department of transportation matter. The States will continue to be responsible for establishing the qualification requirements for contractors doing highway work.

12. Maryland Department of Transportation (MDOT)

The MDOT commented that it supports the goals of this SEP–14 initiative to enhance the coordination of the Federal-aid Highway Program with grant programs administered by HUD and EPA. The MDOT further noted the following observations related to the initiative: (1) The FHWA should explore how HUD provisions might be extended to transit projects; (2) MDOT will ensure that, in light of this initiative, it does not create a bias in favor of urban projects over rural projects; (3) the notice is unclear regarding the extent to which HUD planning requirements apply; (4) the initiative should include mechanisms to help recipients identify and monitor HUD Section 3 performance; (5) the FHWA should issue guidance on HUD reporting requirements; (6) the State may need to amend its existing procurement law and minority preference programs in order to take advantage of this SEP–14 initiative; and (7) the livability factors should be amended to include the degree to which the project enhances access to public transit.

FHWA Response: The FHWA appreciates MDOT support for this program, which the FHWA believes will result in contracting efficiencies and increased funding flexibility for the States. With respect to MDOT's observations, the FHWA responds as follows:

(1) The FHWA should explore how HUD provisions might be extended to transit projects: The expansion of this SEP–14 initiative to transit projects is beyond the scope of SEP–14. This is an issue for the Federal Transit Administration.

(2) MDOT will ensure that, in light of this initiative, it does not create a bias in favor of urban projects over rural projects: The FHWA appreciates MDOT's awareness of this issue and encourages the State to take appropriate steps to utilize its Federal-aid highway funds as the State deems most appropriate.

(3) The notice is unclear regarding the extent to which HUD planning requirements apply: Grant recipients must apply with applicable FHWA and HUD requirements.

(4) The initiative should include mechanisms to help recipients identify and monitor HUD Section 3 performance: The FHWA is not responsible for the administration of the HUD's Section 3 Program. HUD is the most appropriate agency to help recipients comply with HUD Section 3 requirements.

(5) The FHWA should issue guidance on HUD reporting requirements: The FHWA is not responsible for the administration of the HUD's Section 3 Program. HUD is the most appropriate agency to help recipients comply with HUD Section 3 requirements.

(6) The State may need to amend its existing procurement law and minority preference programs in order to take advantage of this SEP–14 initiative: The use of this SEP–14 initiative is not mandatory. States wishing to participate should first ensure that doing so is consistent with State requirements.

(7) The livability factors should be amended to include the degree to which the project enhances access to public transit: The livability factors already address the extent to which the project will enhance user mobility through the creation of more convenient transportation options and whether the project will improve existing transportation choices by enhancing modal connectivity. The FHWA believes that these factors already encompass the degree to which a project may, among other things, enhance access to public transit.

SEP–14 Initiative

The FHWA has decided to permit States to request SEP–14 approval for contracting practices intended to enhance livability and sustainability as part of any project that is to be jointly funded with HUD. In order to receive SEP–14 approval, States should follow

the normal process and submit work plans to the appropriate FHWA division office. For more information on the SEP–14 process, please see: *http://www.fhwa.dot.gov/programadmin/contracts/sep_a.cfm.*

In particular, with respect to projects involving activities that otherwise meet the requirements for the use of FHWA and HUD funds, States may experiment under SEP–14 with combining these funding sources for single, integrated projects that are procured and bid under a single contract while complying with training, employment, and contracting requirements of HUD's Section 3, to the greatest extent feasible. The purpose of the experiment is to gauge the extent to which HUD funding may be used for highway projects, the effects on competition whenever HUD's economic opportunity requirements are used on a joint FHWA/HUD project, and the extent to which the alignment of FHWA and HUD requirements further livability.

The FHWA will only consider the possible use of HUD's economic opportunity requirements under SEP–14 in the context of a joint FHWA/HUD project and only to the extent necessary to comply with applicable HUD statutes. The FHWA will not consider the use of such preferences unless necessary to meet the requirements of a Federal grant-in-aid program.

In developing their work plans, States should address, at a minimum, the following points:

1. Competition

a. States should describe how they will evaluate the effects of HUD's economic opportunity requirements on competitive bidding. In doing so, the States may wish to compare the bids received for the proposed project to prior projects of similar size and scope and in the same geographic area.

b. States should quantify and report on the expected economic benefits from advancing the joint FHWA/HUD project under a single contract.

c. States wishing to utilize SEP–14 to permit the use of HUD-required hiring preferences on joint FHWA/HUD projects should identify the amount of HUD and FHWA funding involved in the project as well as the estimated total project cost. In order to qualify for a SEP–14 approval to use a geographic preference for a joint FHWA/HUD project, the amount of HUD funding involved with the project must be at least 10 percent of the amount of Title 23 eligible work, or with respect to projects financed with $100,000,000 or more in Federal funding in the aggregate, 5 percent of such eligible work. In any event, the FHWA may reject SEP–14 work plans for projects with only de minimis amount of HUD funding.

d. States should address whether the HUD provision at issue conflicts with FHWA regulations and is necessary to meet HUD program requirements.

e. The work plan should address the degree to which the project enhances livability and sustainability.

2. Livability

Livability investments are projects that not only deliver transportation benefits, but are also designed and planned in such a way that they have a positive impact on qualitative measures of community life. This element of long-term outcomes delivers benefits that are inherently difficult to measure. However, it is implicit to livability that its benefits are shared and therefore magnified by the number of potential users in the affected community.

The workplan should provide a description of the affected community and the scale of the project's impact. Factors relevant to whether a project improves the quality of the living and working environment of a community include:

a. Will the project significantly enhance user mobility through the creation of more convenient transportation options for travelers?

b. Will the project improve existing transportation choices by enhancing points of modal connectivity or by reducing congestion on existing modal assets?

c. Will the project improve accessibility and transport services for economically disadvantaged populations, non-drivers, senior citizens, and persons with disabilities, or to make goods, commodities, and services more readily available to these groups?

d. Is the project the result of a planning process which coordinated transportation and land-use planning decisions and encouraged community participation in the process?

3. Sustainability

Sustainability refers to whether a project promotes a more environmentally sustainable transportation system. The workplan should address the following issues relevant to sustainability:

a. Does the project improve energy efficiency, reduce dependence on oil and/or reduce greenhouse gas emissions? Applicants are encouraged to provide quantitative information regarding expected reductions in emissions of CO2 or fuel consumption as a result of the project, or expected use of clean or alternative sources of energy. Projects that demonstrate a projected decrease in the movement of people or goods by less energy-efficient vehicles or systems will be given priority under this factor.

b. Does the project maintain, protect or enhance the environment, as evidenced by its avoidance of adverse environmental impacts (for example, adverse impacts related to air quality, wetlands, and endangered species) and/or by its environmental benefits (for example, improved air quality, wetlands creation or improved habitat connectivity)?

c. Does the project further the goals of the DOT, HUD, and EPA Sustainable Communities Partnership discussed above?

Authority: 23 U.S.C. 315.

Issued on: June 21, 2010.

Victor M. Mendez,

Administrator.

[FR Doc. 2010–15438 Filed 6–24–10; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventh Meeting—RTCA Special Committee 220: Automatic Flight Guidance and Control

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 220: Automatic Flight Guidance and Control meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 220: Automatic Flight Guidance and Control.

DATES: The meeting will be held July 13–15, 2010. July 13th and 14th from 9 a.m. to 5 p.m. and July 15th from 9 a.m. to 2 p.m.

ADDRESSES: The meeting will be held at the Bourbon Orleans Hotel, 717 Orleans Street, New Orleans, LA 70116, *Phone:* 504–571–4687, *Fax:* 504–525–8166, *E-Mail: http://www.bourbonorleans.com.*

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 220: Automatic Flight Guidance and

Control meeting. The agenda will include:

- Welcome/Agenda Overview.
- Consider for Approval—New Document—*Minimum Operational Performance Standards (MOPS) for Automatic Flight Guidance and Control Systems and Equipment,* RTCA Paper No. 088–10/SC220–042.
- Continue Development of Installation Guidance White Papers.
- Wrap-up and Review of Action Items.
- Establish Dates, Location, Agenda for Next Meeting, Other Business.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 17, 2010.

Meredith Gibbs,

RTCA Advisory Committee.

[FR Doc. 2010–15430 Filed 6–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2010–0080; Notice 1]

Goodyear Tire and Rubber Company, Receipt of Petition for Decision of Inconsequential Noncompliance

Goodyear Tire and Rubber Company, (Goodyear),[1] has determined that approximately 14,826 passenger car tires manufactured between August of 2007 and May of 2009, do not fully comply with paragraph S5.5(f) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles.* Goodyear has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (*see* implementing rule at 49 CFR part 556), Goodyear has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

[1] Goodyear Tire and Rubber Company (Goodyear), a replacement equipment manufacturer, is incorporated in the state of Ohio.

This notice of receipt of Goodyear's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Affected are approximately 14,826 sizes P195/55R15 84V and P225/60R16 97H Goodyear brand Arizonian Silver Edition Plus model passenger car tires manufactured between August of 2007 and May of 2009 at Goodyear's plant located in Otrokovice, Czech Republic.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the 14,826 [2] tires that have already passed from the manufacturer to an owner, purchaser, or dealer.

Paragraph S5.5(f) of FMVSS No. 139 require in pertinent part:

> S5.5 Tire markings. Except as specified in paragraphs (a) through (i) of S5.5, each tire must be marked on each sidewall with the information specified in S5.5(a) through (d) and on one sidewall with the information specified in S5.5(e) through (i) according to the phase-in schedule specified in S7 of this standard. The markings must be placed between the maximum section width and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area that is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, those markings must appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings must be in letters and numerals not less than 0.078 inches high and raised above or sunk below the tire surface not less than 0.015 inches * * *
>
> (f) The actual number of plies in the sidewall, and the actual number of plies in the tread area, if different * * *

Goodyear explains that the noncompliance is that, due to a mold labeling error, the sidewall marking on the reference side of the tires incorrectly describes the actual number of plies in the tread area of the tires as required by paragraph S5.5(f). Specifically, the tires in question were inadvertently manufactured with "Tread Plies: 2 Polyester + 2 steel." The labeling should have been "Tread Plies: 2 Polyester + 1 polyamide + 2 steel."

Goodyear also explains that while the noncompliant tires are mislabeled "the tires meet or exceed all applicable Federal Motor Vehicle Safety Standards."

Goodyear reported that this noncompliance was brought to their attention during an audit of sidewall labeling.

Goodyear argues that this noncompliance is inconsequential to motor vehicle safety because the noncompliant sidewall marking does not create an unsafe condition and all other labeling requirements have been met.

Goodyear points out that NHTSA has previously granted similar petitions for non-compliances in sidewall marking.

Goodyear additionally states that it has corrected the affected tire molds and all future production will have the correct material shown on the sidewall.

In summation, Goodyear believes that the described noncompliance of its tires to meet the requirements of FMVSS No. 139 is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120, and should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance.

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200

[2] Goodyear's petition, which was filed under 49 CFR part 556, requests an agency decision to exempt Goodyear as a replacement equipment manufacturer from the notification and recall responsibilities of 49 CFR part 573 for 14,826 of the affected tires. However, the agency cannot relieve Goodyear distributors of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Goodyear recognized that the subject noncompliance existed. Those tires must be brought into conformance, exported, or destroyed.

New Jersey Avenue, SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/*. Follow the online instructions for submitting comments. Comments may also be faxed to 1–202–493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: July 26, 2010.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at CFR 1.50 and 501.8)

Issued on: June 21, 2010.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2010–15431 Filed 6–24–10; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 21, 2010.

The Department of the Treasury will submit the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

Dates: Written comments should be received on or before July 26, 2010 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–2160.

Type of Review: Revision of a currently approved collection.

Title: Information Return for Tax Credit Bonds.

Form: 8038–TC.

Abstract: Form 8038–TC will be used by issuers of qualified tax-exempt credit bonds, including tax credit bonds enacted under the American Recovery and Reinvestment Act of 2009, to capture information required by IRC section 149(e) using a schedule approach. For applicable types of bond issues, filers will use this form instead of Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

Respondents: State, Local, and Tribal Governments.

Estimated Total Burden Hours: 20,294 hours.

OMB Number: 1545–2161.

Type of Review: Extension without change of a currently approved collection.

Title: Information Return for Build America Bonds and Recovery Zone Economic Development Bonds.

Form: 8038–B.

Abstract: Form 8038–B has been developed to assist issuers of the new types of Build America and Recovery Zone Economic Development Bonds enacted under the American Recovery and Reinvestment Act of 2009 to capture information required by IRC section 149(e).

Respondents: State, Local, and Tribal Governments.

Estimated Total Burden Hours: 113,661 hours.

OMB Number: 1545–2162.

Type of Review: Extension without change of a currently approved collection.

Title: HCTC Medicare Family Member Registration Form.

Form: 14117.

Abstract: The Health Coverage Improvement, Section 1899E of the American Recovery and Reinvestment Act of 2009, authorizes the continuation of HCTC benefits for qualified family members after the original HCTC candidate has been canceled from the program due to Medicare enrollment. The original HCTC candidate will complete this form in order to continue enrollment for or to register their family members in the monthly HCTC program.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 1,200 hours.

OMB Number: 1545–2163.

Type of Review: Extension without change of a currently approved collection.

Title: Family Member Eligibility Form.

Form: 14116.

Abstract: This form will be used by the family members of Health Coverage Tax Credit (HCTC) eligible individuals under circumstances where the original candidate has died or become divorced from the family member. This form allows family member to begin the HCTC registration process by verifying the family member's eligibility.

Respondents: Individuals or Households.

Estimated Total Burden Hours: 30 hours.

OMB Number: 1545–2164.

Type of Review: Extension without change of a currently approved collection.

Title: Relief and Guidance on Corrections of Certain Failures of a Nonqualified Deferred Compensation Plan to Comply with § 409A(a).

Notice: 2010–6.

Abstract: Notice 2010–6 requires a corporation to attach to its federal income tax return an information statement related to the correction of a failure of a nonqualified deferred compensation plan to comply with the written plan document requirements of § 409A(a). The information statement must be attached to the corporation's income tax return for the corporation's taxable year in which the correction is made, and the subsequent taxable year to the extent an affected employee must include an amount in income in such subsequent year as a result of the correction. The corporation must also provide an information statement to each affected employee, and such employee must attach an information statement to the employee's federal tax return for the employee's taxable year during which the correction is made, and the subsequent taxable year but only if an amount is includible in

income by the employee in such subsequent year as a result of the correction.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 5,000 hours.

Bureau Clearance Officer: R. Joseph Durbala, Internal Revenue Service, 1111 Constitution Avenue, NW., Room 6129, Washington, DC 20224; (202) 622–3634.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2010–15375 Filed 6–24–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing the names of five individuals and three entities whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act ("Kingpin Act") (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the five individuals and three entities identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on June 17, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service, tel.: (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury consults with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property and interests in property, subject to U.S. jurisdiction, of persons who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On June 17, 2010, the Director of OFAC designated five individuals and three entities whose property and interests in property are blocked pursuant to section 805(b) of the Foreign Narcotics Kingpin Designation Act.

The list of additional designees is as follows:

Individuals:

1. SOLARTE CERON, Olidem Romel (a.k.a. SOLARTE CERON, Oliver); Colombia; DOB 05 Feb 1971; Citizen Colombia; Cedula No. 18153797 (Colombia); (INDIVIDUAL) [SDNTK].
2. OSTAIZA AMAY, Jefferson Omar, c/o MULTINACIONAL INTEGRAL PRODUCTIVA JOOAMY EMA, Quito, Pichincha, Ecuador; DOB 16 Nov 1973; POB Santo Domingo, Ecuador; Citizen Ecuador; Cedula No. 1712394947 (Ecuador); Passport 1712394947 (Ecuador); (INDIVIDUAL) [SDNTK].
3. OSTAIZA AMAY, Edison Ariolfo, c/o MULTINACIONAL INTEGRAL PRODUCTIVA JOOAMY EMA, Quito, Pichincha, Ecuador; DOB 19 Jul 1975; Citizen Ecuador; Cedula No. 1713602009 (Ecuador); Passport 1713602009 (Ecuador); (INDIVIDUAL) [SDNTK].
4. OSTAIZA AMAY, Miguel Angel, Ecuador; DOB 08 Dec 1976; POB Ecuador; Citizen Ecuador; Cedula No. 1713513834 (Ecuador); Passport 1713513834 (Ecuador); (INDIVIDUAL) [SDNTK].
5. MONTENEGRO VALLEJOS, Gilma, Colombia; DOB 17 Jul 1969; POB Bogota, Colombia; Citizen Colombia; (INDIVIDUAL) [SDNTK].

Entities:

1. MULTINACIONAL INTEGRAL PRODUCTIVA JOOAMY EMA, Avenida Amazonas 40–80 y Union Nacional De Periodistas, Edificio Puertas del Sol, Piso 6, Quito, Pichincha, Ecuador; RUC # 1792068347001 (Ecuador); (ENTITY) [SDNTK].
2. AGROPECUARIA SAN CAYETANO DE COSTA RICA LTDA, Centro Comercial El Lago, San Rafael de Escazu, San Jose, Costa Rica; Commercial Registry Number CJ 3–102–285524 (Costa Rica); (ENTITY) [SDNTK].
3. ARROCERA EL GAUCHO S.A., De la Embajada de Estados Unidos, 300 metros Norte, 25 metros Este, Rohrmoser, San Jose, Costa Rica; Commercial Registry Number CJ 3101304888 (Costa Rica); (ENTITY) [SDNTK].

In addition, OFAC has made a change to the following listing of one individual previously designated pursuant to the Kingpin Act:

1. MELO PERILLA, Jose Cayetano, c/o CARILLANCA COLOMBIA Y CIA S EN CS, Bogota, Colombia; c/o CARILLANCA S.A., San Jose, Costa Rica; c/o CARILLANCA C.A., Arismendi, Nueva Esparta, Venezuela; c/o PARQUEADERO DE LA 25–13, Bogota, Colombia; DOB 07 Nov 1957; POB Ibague, Tolima, Colombia; Citizen Colombia; Cedula No. 5882964 (Colombia); Passport 5882964 (Colombia); Residency Number 003–5506420–0100028 (Costa Rica); (INDIVIDUAL) [SDNTK].

The listing now appears as follows:

1. MELO PERILLA, Jose Cayetano, c/o CARILLANCA COLOMBIA Y CIA S EN CS, Bogota, Colombia; c/o CARILLANCA S.A., San Jose, Costa Rica; c/o CARILLANCA C.A., Arismendi, Nueva Esparta, Venezuela; c/o PARQUEADERO DE LA 25–13, Bogota, Colombia; c/o AGROPECUARIA SAN CAYETANO DE COSTA RICA LTDA, San Jose, Costa Rica; c/o ARROCERA EL

GAUCHO S.A., San Jose, Costa Rica; DOB 07 Nov 1957; POB Ibague, Tolima, Colombia; Citizen Colombia; Cedula No. 5882964 (Colombia); Passport 5882964 (Colombia); Residency Number 003–5506420–0100028 (Costa Rica); (INDIVIDUAL) [SDNTK].

Dated: June 17, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2010–15376 Filed 6–24–10; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR 2013 and EE–155–78]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning existing final regulations, LR 2013 (TD 7533), Disc Rules on Procedure and Administration; Rules on Export Trade Corporations, and EE–155–78 (TD 7896), Income From Trade Shows (§§ 1.6071–1 and 1.6072–2).

DATES: Written comments should be received on or before August 24, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald J. Shields, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: LR 2013 (TD 7533), Disc Rules on Procedure and Administration; Rules on Export Trade Corporations, and EE–155–78 (TD 7896), Income From Trade Shows.

OMB Number: 1545–0807.

Regulation Project Numbers: LR 2013 and EE–155–78. Abstract: Regulation section 1.6071–1(b) requires that when a taxpayer files a late return for a short period, proof of unusual circumstances for late filing must be given to the District Director. Sections 6072(b), (c), (d), and (e) of the Internal Revenue Code deal with the filing dates of certain corporate returns. Regulation section 1.6072–2 provides additional information concerning these filing dates.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of OMB approval.

Affected Public: Individual or households, business or other for-profit organizations, not-for-profit institutions, farms, and state, local or tribal governments.

Estimated Number of Respondents: 12,417.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 3,104.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 16, 2010.

Gerald J. Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–15409 Filed 6–24–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–115403–05 (Temporary), T.D. 9312, (Final)]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning REG–115403–05 (Temporary), TD 9312 (Final), Deduction for Film and Television Production Costs.

DATES: Written comments should be received on or before August 24, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Joel P. Goldberger, at (202) 927–9368, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Joel.P.Goldberger@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Deduction for Film and Television Production Costs.

OMB Number: 1545–2059.

Regulation Project Number: REG–115403–05 (Temporary), T.D. 9312, (Final).

Abstract: This regulation provides rules for electing to claim a deduction for certain costs of producing of a qualifying film or television production, and for substantiating that the production qualifies for the deduction. The regulation provides the time and manner for a taxpayer to submit certain information to make the election and to claim this deduction.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 1,600.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 7, 2010.

Gerald Shields,

IRS Reports Clearance Officer.

[FR Doc. 2010–15373 Filed 6–24–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2007–19, as Amended and Supplemented by Notice 2007–31

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 2007–19, as Amended and Supplemented by Notice 2007–31, Statute of Limitations on Assessment Concerning Certain Individuals Filing Income Tax Returns With the U.S. Virgin Islands.

DATES: Written comments should be received on or before August 24, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Joel Goldberger at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 927–9368, or through the Internet at *Joel.P.Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Statute of Limitations on Assessment Concerning Certain Individuals Filing Income Tax Returns With the U.S. Virgin Islands.

OMB Number: 1545–2063.

Notice 2007–19, as Amended and Supplemented by Notice 2007–31.

Abstract: This Notice provides interim guidance, pending the issuance of regulations, concerning the statute of limitations on assessment for the U.S. income tax liability, if any, of U.S. citizens or resident aliens claiming to be bona fide residents of the US Virgin Islands (USVI). In addition, notice provides new information reporting rules for certain taxpayers claiming to be bona fide residents of the USVI.

Current Actions: There are no changes being made to the Notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 8,500.

Estimated Time per Respondent: 5 Hours.

Estimated Total Annual Burden Hours: 42,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 17, 2010.

Gerald Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–15372 Filed 6–24–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5330

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form

5330, Return of Excise Taxes Related to Employee Benefit Plans.

DATES: Written comments should be received on or before August 24, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald J. Shields, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Return of Excise Taxes Related to Employee Benefit Plans.

OMB Number: 1545–0575.

Form Number: Form 5330.

Abstract: This form used to report and pay the excise Tax related to employee benefit plans imposed by sections 4971, 4972, 4973(a)(2), 4975, 4976, 4977, 4978, 4979, 4979A, and 4980 of the Internal Revenue Code.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 8,403.

Estimated Time per Respondent: 64 hours 16 minutes.

Estimated Total Annual Burden Hours: 540,145.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 16, 2010.

Gerald J. Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–15408 Filed 6–24–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8857

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8857, Request for Innocent Spouse Relief.

DATES: Written comments should be received on or before August 24, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald J. Shields, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Innocent Spouse Relief.

OMB Number: 1545–1596.

Form Number: 8857.

Abstract: Section 6013(e) of the Internal Revenue Code allows taxpayers to request, and IRS to grant, "innocent spouse" relief when: the taxpayer files a joint return with tax substantially understated; the taxpayer establishes no knowledge of, or benefit from, the understatement; and it would be inequitable to hold the taxpayer liable. Form 8857 is used to request relief from liability of an understatement of tax on a joint return resulting from a grossly erroneous item attributable to the spouse.

Current Actions: There are no changes to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Time per Respondent: 4 hours, 49 minutes.

Estimated Total Annual Burden Hours: 240,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 17, 2010.

Gerald J. Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–15410 Filed 6–24–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–EO

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453–EO, Exempt Organization Declaration and Signature for Electronic Filing.

DATES: Written comments should be received on or before August 24, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald J. Shields, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Exempt Organization Declaration and Signature for Electronic Filing.

OMB Number: 1545–1879.

Form Number: 8453–EO.

Abstract: Form 8453–EO is used to enable the electronic filing of Forms 990, 990–EZ, or 1120–POL.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 5 hours, 14 minutes.

Estimated Total Annual Burden Hours: 1,046.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 14, 2010.

Gerald J. Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–15405 Filed 6–24–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120–C

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120–C, U.S. Income Tax Return for Cooperative Associations.

DATES: Written comments should be received on or before August 24, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald J. Shields, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Cooperative Associations.

OMB Number: 1545–2052.

Form Number: 1120–C.

Abstract: IRS Code section 1381 requires subchapter T cooperatives to file returns. Previously, farmers' cooperatives filed Form 990–C and other subchapter T cooperatives filed Form 1120. If the subchapter T cooperative does not meet certain requirements, the due date of their return is two and one-half months after the end of their tax year which is the same as the due date for all other corporations. The due date for income tax returns filed by subchapter T cooperatives who meet certain requirements is eight and one-half months after the end of their tax year. Cooperatives who filed their income tax returns on Form 1120 were considered to be late and penalties were assessed since they had not filed by the normal due date for Form 1120. Due to the assessment of the penalties, burden was placed on the taxpayer and on the IRS employees to resolve the issue. Proposed regulations (Reg-149436–04) published in the **Federal Register** (71 FR 43811), proposes that all subchapter T cooperatives will file Form 1120–C, U.S. Income Tax Return for Cooperative Associations.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 4,000.

Estimated Time per Respondent: 107 hours, 36 minutes.

Estimated Total Annual Burden Hours: 430,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 14, 2010.

Gerald J. Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–15406 Filed 6–24–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–INT

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–INT, Interest Income.

DATES: Written comments should be received on or before August 24, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald J. Shields, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, at (202) 622–3634, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through then Internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Interest Income.

OMB Number: 1545–0112.

Form Number: 1099–INT.

Abstract: Form 1099–INT is used for reporting interest income paid, as required by sections 6049 and 6041 of the Internal Revenue Code. The IRS uses the form to verify compliance with the reporting rules and to verify that the recipient has included the proper amount of interest on his or her income tax return.

Current Actions: There are no changes to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, Federal Government, individuals or households, and not-for-profit institutions.

Estimated Number of Responses: 245,837,200.

Estimated Time per Response: 17 minutes.

Estimated Total Annual Burden Hours: 63,677,672.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 14, 2010.

Gerald J. Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–15407 Filed 6–24–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8923

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8923, Mine Rescue Team Training Credit.

DATES: Written comments should be received on or before August 24, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Joel Goldberger, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 927–

9368, or through the Internet at *Joel.P.Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Mine Rescue Team Training Credit.

OMB Number: 1545–2067.

Form Number: 8923.

Abstract: Form 8923, Mine Rescue Team Training Credit, was developed to carry out the provisions of new code section 45N. 45N was added by section 405 of the Tax Relief and Health Care Act of 2006. The new form provides a means for the qualified mining company to compute and claim the credit.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 1 hour; 28 minutes.

Estimated Total Annual Burden Hours: 292.

The following paragraph applies to all of the collections of information covered by this notice: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 17, 2010.

Gerald Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–15418 Filed 6–24–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–Section 26.2642.6, TD 9348]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing regulation, REG–Section 26.2642.6, T.D. 9348, Qualified Severance of a Trust for Generation-Skipping Transfer (GST) Tax Purposes.

DATES: Written comments should be received on or before August 24, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to, Gerald Shields, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Joel Goldberger, at (202) 927–9368, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Joel.P.Goldberger@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Qualified Severance of a Trust for Generation-Skipping Transfer (GST) Tax Purposes

OMB Number: 1545–1902. *Regulation Project Number:* REG–26–2642.6, T.D.9348.

Abstract: This information is required by the IRS for qualified severances. It will be used to identify the trusts being severed and the new trusts created upon severance.

Current Actions: This NPRM has been finalized; there is no change to the existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 25,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 12,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 7, 2010.

Gerald Shields,

IRS Reports Clearance Officer.

[FR Doc. 2010–15411 Filed 6–24–10; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Friday,
June 25, 2010

Part II

Department of Commerce

Bureau of Industry and Security

15 CFR Parts 730, 734, 738, et al.

Encryption Export Controls: Revision of License Exception ENC and Mass Market Eligibility, Submission Procedures, Reporting Requirements, License Application Requirements, and Addition of Note 4 to Category 5, Part 2; Interim Final Rule

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 730, 734, 738, 740, 742, 748, 772 and 774

[Docket No. 100309131–0195–02]

RIN 0694–AE89

Encryption Export Controls: Revision of License Exception ENC and Mass Market Eligibility, Submission Procedures, Reporting Requirements, License Application Requirements, and Addition of Note 4 to Category 5, Part 2

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Interim final rule, with request for comments.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR or Regulations) to modify the requirements of License Exception ENC, "Encryption Commodities, Software and Technology," and the requirements for qualifying an encryption item as mass market. BIS is also amending specific license requirements for encryption items. With respect to encryption products of lesser national security concern, this rule replaces the requirement to wait 30 days for a technical review before exporting such products and the requirement to file semi-annual post-export sales and distribution reports with a provision that allows immediate authorization to export and reexport these products after electronic submission to BIS of an encryption registration. A condition of this new authorization for less sensitive products is submission of an annual self-classification report on these commodities and software exported under License Exception ENC. With respect to most mass market encryption products, this rule similarly replaces the requirement to wait 30 days for a technical review before exporting and reexporting such products with a provision that allows immediate authorization to export and reexport these products after electronic submission to BIS of an encryption registration, subject to annual self-classification reporting for exported encryption products. Only a few categories of License Exception ENC and mass market encryption products will continue to require submission of a 30-day classification request. Encryption items that are more strictly controlled continue to be authorized for immediate export and reexport to most end-users located in close ally countries upon submission of an encryption registration and classification request to BIS. This rule also eases licensing requirements for the export and reexport of many types of technology necessary for the development and use of encryption products, except to countries subject to export or reexport license requirements for national security reasons or anti-terrorism reasons, or that are subject to embargo or sanctions. This rule also removes the requirement to file separate encryption classification requests (formerly encryption review requests) with both BIS and the ENC Encryption Request Coordinator (Ft. Meade, MD).

BIS is also amending the EAR by implementing the agreements made by the Wassenaar Arrangement at the plenary meeting in December 2009 that pertained to "information security" items. This rule adds an overarching note to exclude particular products that use cryptography from being controlled as "information security" items. The addition of this note focuses "information security" controls on the use of encryption for computing, communications, networking and information security. This rule also makes additional changes throughout the EAR to harmonize it with the new note.

This rule also replaces a note in ECCN 5A002 pertaining to personalized smart cards with a note pertaining to smart cards and smart readers/writers. As a result of this change, a definition is being removed from the EAR.

DATES: This rule is effective: June 25, 2010. Comments must be received by August 24, 2010.

ADDRESSES: You may submit comments, identified by RIN 0694–AE89, by any of the following methods:

- *Federal eRulemaking Portal: http://www.Regulations.gov.* Please follow the instructions for submitting comments.
- *E-mail: publiccomments@bis.doc.gov.* Please include RIN 0694–AE89 in the subject line.
- *Mail or Hand Delivery/Courier:* U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th and Pennsylvania Ave., NW., Room H–2705, Washington, DC 20230; or by fax to (202) 482–3355. Please insert "0694–AE89" in the subject line of comments.

Comments regarding the collections of information associated with this rule, including suggestions for reducing the burden, should be sent to OMB Desk Officer, New Executive Office Building, Washington, DC 20503, Attention: Jasmeet Seehra, or by e-mail to *Jasmeet_K._Seehra@omb.eop.gov* or by fax to (202) 395–7285; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Ave., NW., Room 6883, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: For technical questions contact: The Information Technology Division, Office of National Security and Technology Transfer Controls within BIS at 202–482–0707 or by e-mail at *encryption@bis.doc.gov.*

For other questions contact: Sharron Cook, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce at (202) 482–2440 or by e-mail at *scook@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

To protect and preserve foreign policy and national security interests, the United States maintains export controls on encryption items. Encryption items may be used to maintain the secrecy of information, and therefore may be used by persons abroad to bring harm to law enforcement, and U.S. foreign policy and national security interests. The U.S. Government has a critical interest in ensuring that the legitimate needs for protecting important and sensitive information of the public and private sectors are met, and that persons opposed to the United States are not able to conceal hostile or criminal activities.

When dual-use encryption items were transferred from the United States Munitions List (USML) to the CCL on December 6, 1996, a foreign policy reason for control, Encryption Items (EI), was imposed on these items. A license is required to export or reexport EI-controlled items classified under Export Control Classification Numbers (ECCNs) 5A002, 5D002 and 5E002 on the CCL to all destinations except Canada. All items controlled for EI reasons are also controlled for National Security (NS) reasons.

This rule enhances national security by focusing encryption export controls and streamlining the collection and analysis of information about encryption products, through reforms that include:

- Removing review requirements for less sensitive encryption items;
- Establishing a company registration requirement for encryption items under License Exception ENC or as mass market encryption items;
- Creating an annual self-classification report requirement for such items pursuant to an encryption registration;

• Making encryption technology eligible for export and reexport under License Exception ENC, except to countries of highest concern;
• Lifting the semi-annual sales reporting for less sensitive encryption items under License Exception ENC;
• Removing the 30-day delay to export and reexport less sensitive encryption items under License Exception ENC; and
• Removing the 30-day delay to make most mass market encryption items eligible for mass market treatment.

BIS is making these amendments to protect national security in the face of an ever-changing global marketplace for encryption items and to ensure continued United States adherence to multilateral regime commitments. The changes in this rule are discussed either topically or by section of the EAR, as applicable. This rule is the first step in the President's effort to reform U.S. encryption export controls to enhance national security by ensuring the continued competitiveness of U.S. encryption products, reducing paperwork requirements for less sensitive encryption items, making the process for submission more efficient, updating the control parameters for controlled encryption items and addressing the impact of export controls on electronic components having encryption functionality. The U.S. Government will also review other issues related to encryption controls, in keeping with national security requirements and multilateral regime commitments.

Review Request vs. Classification Request

This rule replaces the term "review request" with "classification request" in sections 740.17 and 742.15 so that the terminology used in the encryption regulations is consistent with the terminology used for other items on the Commerce Control List (CCL).

Submissions Requirements for Encryption Items

Prior to this rule, the EAR required exporters to submit review requests to both BIS and the ENC Encryption Request Coordinator. This new rule will reduce the paperwork burden on applicants by removing the requirement for applicants to submit requests to the ENC Encryption Request Coordinator when the submission is made via Simplified Network Application Processing system (SNAP–R) for Encryption Registration and Encryption Classification Requests. Upon effectiveness of this rule, BIS will send encryption SNAP–R submissions to the ENC Encryption Request Coordinator. This change will decrease the paperwork burden on the applicants. However, all reports (*i.e.,* the semi-annual sales report and the annual self-classification report) must continue to be submitted to both BIS and the ENC Encryption Request Coordinator.

Supplement No. 1 to Part 730—"Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers"

This supplement is amended by removing the title for collection number 0694–104 and adding in its place "Commercial Encryption Items under Commerce Jurisdiction."

Section 734.4—De Minimis U.S. Content

This rule makes changes to (b)(1)(ii), (b)(1)(iii) and (b)(2) to harmonize with changes to encryption procedures under sections 740.17 and 742.15(b). Paragraph (v) is added to section 734.4(b)(1) to indicate that encryption commodities and software may be considered for *de minimis* treatment if such products were authorized for export under License Exception ENC after submission of an encryption registration pursuant to section 740.17(b)(1) of the EAR.

Section 738.4—Determining Whether a License Is Required

This rule revises the third sentence in paragraph 738.4(a)(2)(ii)(B) of the EAR by replacing "review" with "encryption registration and classification" to harmonize it with the new submission requirements for encryption items.

Section 740.17—License Exception ENC

This rule revises the first sentence in sections 740.17 and 740.17(b)(2) to describe more clearly the types of items eligible for export and reexport under License Exception ENC.

Section 740.17(a)—No Classification Request, Registration or Reporting Required

This rule amends section 740.17(a) by removing references to "review" and by adding references to the encryption registration, classification requests, self-classification reports and sales reports to harmonize it with the new submission requirements for encryption items. This amendment does not change any requirements or eligibility under section 740.17(a) of the EAR.

Immediate Authorization for Less Sensitive Encryption Items and Certain Mass Market Encryption Items With the Submission of an Encryption Registration and Subsequent Self-Classification Annual Report

Prior to this rule, eligibility under section 740.17(b)(3) of License Exception ENC and mass market treatment under section 742.15(b) required prior submission of a review request and 30-day technical review for most encryption items. This system of authorization centered on product-by-product authorizations. The new system of authorization implemented by this rule is based on company authorizations that operate like a bulk license for the company's products. This rule establishes two new procedures—*i.e.,* the company encryption registration and the annual self-classification report—that will allow the export without a 30-day technical review for less sensitive encryption items under License Exception ENC and less sensitive mass market encryption items. The company registration requirement is described in the new Supplement No. 5 to part 742 of the EAR. Special instructions for submitting an encryption registration using SNAP–R are in paragraph (r) of Supplement No. 2 to part 748 of the EAR. Because of this shift from product authorization to company authorization, the information in block 14 (applicant) of the encryption registration screen and the information in Supplement No. 5 to part 742 must pertain to the company that seeks authorization to export and reexport encryption items that are within the scope of this rule. An agent for the exporter, such as a law firm, should not list the agent's name in block 14. The agent may, however submit the encryption registration and list itself in block 15 ("other party authorized to receive license") of the encryption registration screen in SNAP–R. The follow-on self-classification report would be required to be submitted annually to BIS and the ENC Encryption Request Coordinator in February for items exported or reexported the previous calendar year (*i.e.,* January 1 through December 31) pursuant to the encryption registration and applicable sections 740.17(b)(1) or 742.15(b)(1) of the EAR.

An encryption registration is only required for authorization under License Exception ENC sections 740.17(b)(1), 740.17(b)(2) and 740.17(b)(3), and mass market encryption sections 742.15(b)(1) and 742.15(b)(3) of the EAR. Exports and reexports described under sections 740.17(a), 740.17(b)(4), 740.17(c) and

742.15(b)(4) will continue to be authorized without the need for a submission. A company that exports under the authorizations described in this rule only needs to register once and does not need to resubmit its encryption registration unless the answers to the questions in Supplement No. 5 to part 742 changed during the previous calendar year. Because exporters of encryption items may not be the producers of those encryption items, they may not know the answers to some of the questions in Supplement No. 5 to part 742, BIS has included instructions in Supplement No. 5 to account for this situation.

When an encryption registration is submitted via SNAP–R, SNAP–R will issue an Encryption Registration Number (ERN), which will start with an "R" and will be followed by 6 digits, *e.g.,* R123456. This ERN authorizes under License Exception ENC exports or reexports of the commodities classified under ECCNs 5A002.a.1, .a.2, .a.5, .a.6, or .a.9, or ECCN 5B002, and equivalent or related software classified under ECCN 5D002, except any such commodities, software or components described in paragraphs (b)(2) or (b)(3) of section 740.17 of the EAR. The ERN also authorizes exports and reexports of commodities and software that are released from "EI" and "NS" controls under section 742.15(b)(1) and are classified under ECCNs 5A992 and 5D992, respectively. These authorizations require submission of a self-classification report to BIS and the ENC Encryption Request Coordinator, in accordance with section 742.15(c) and Supplement No. 8 to part 742 of the EAR. For encryption items authorized after the submission of an encryption registration under sections 740.17(b)(1) or 742.15(b)(1), the filer may be required to provide relevant information about the encryption functionality of the items. BIS may request the filer to provide information described in Supplement No. 6 to part 742.

Prior to this rule, when 30-day technical review and classification by BIS was required for these less sensitive encryption items which may now be self-classified under section 740.17(b) or 742.15(b), many producers of these items made their encryption classifications (CCATS) available for other parties to use when exporting or reexport their products. Under this rule, when an exporter or reexporter relies on the producer's self-classification (pursuant to the producer's encryption registration) or CCATS for an encryption item, the exporter or reexporter is not required to submit a separate encryption registration, classification request or self-classification report to BIS under section 740.17(b) or 742.15(b). Those who submit encryption registrations, classification requests and self-classification reports should either be knowledgeable enough about the encryption functionality to answer relevant questions pertaining to their submissions, or else possess the requisite authority or other means to ensure that such information will be made available to BIS upon request. Only License Exception ENC and mass market encryption authorizations under sections 740.17(b) and 742.15(b) to a company that has fulfilled the requirements of encryption registration (such as the producer of the item) authorize the export and reexport of the company's encryption items by all persons, wherever located, under these sections.

New License Exception ENC Eligibility for Most Encryption Technology, to Non-"Government End-Users" Outside Country Group D:1 or E:1

In section 740.17(b)(2)(iv)(B), encryption technology classified under ECCN 5E002 that are not technology for "cryptanalytic items," "non-standard cryptography," or "open cryptographic interfaces" may now be exported and reexported under License Exception ENC to any non-"government end-user" located in a country not listed in Country Groups D:1 or E:1 of Supplement No. 1 to part 740. This change will eliminate redundant license approvals for expired technology licenses to the same end-users and provide exporters with a more predictable timeframe for authorization, while maintaining U.S. Government review of such technology under License Exception ENC. Previously, all such exports and reexports of ECCN 5E002 encryption technology to end-users other than U.S. subsidiaries and companies located or headquartered in a country listed in Supplement No. 3 to part 740 required a license. This revision will decrease encryption licensing arrangements (ELAs) and other license applications to export or reexport encryption technology by approximately 60%.

Technical Revisions to Sections 740.17(b)(2) and 740.17(b)(3)

This rule updates the License Exception ENC specific list of restricted items in section 740.17(b)(2), and creates a new specific list of additional sensitive items in amended section 740.17(b)(3).

This rule adds a new paragraph section 740.17(b)(2)(i)(A)(*3*) (formerly included in section 740.17(b)(2)(i)) to clarify that network infrastructure software and commodities and components providing satellite communications are included on the list of items subject to section 740.17(b)(2) if they provide transmission over satellite at data rates exceeding 10 Mbps with encryption key lengths exceeding 80 bits for symmetric algorithms. The 10 Mbps parameter (formerly described in paragraph (b)(2)(i)(D)(*1*)) is included in paragraph (b)(2)(i)(A)(*5*) in this rule, for air-interface coverage at operating ranges beyond 1,000 meters.

This rule amends the lists of items formerly at section 740.17(b)(2)(iii)(A) and adds items to the new specific list in section 740.17(b)(3). These amendments are consistent with determinations that, for national security reasons, encryption commodities and software that provide penetration capabilities that can be used to attack, deny, disrupt or otherwise impair the use of cyber infrastructure or networks require a license in order to be exported to "government end users" in countries other than countries listed in Supplement No. 3 to part 740. This change is implemented in new paragraph section 740.17(b)(2)(i)(F).

In addition, for national security reasons, classification requests with a 30-day review period continue to be required for items that are not described in the updated section 740.17(b)(2) and that provide or perform vulnerability analysis, network forensics, or computer forensics characterized by any of the following: automated network analysis, visualization, or packet inspection for profiling network flow, network user or client behavior, or network structure/topology and adapting in real-time to the operating environment; or investigation of data leakage, network breaches, and other malicious intrusion activities through triage of captured digital forensic data for law enforcement purposes or in a similarly rigorous evidentiary manner. Therefore, this rule includes these items in the new specific list of items in section 740.17(b)(3)(iii).

To clarify the previous provision related to "public safety radio," this rule creates a new and expanded paragraph for public safety/first responder radios with the addition of section 740.17(b)(2)(G). Former section 740.17(b)(2)(iii)(A) is removed by this rule. The new subparagraph (G) gives two examples of public safety/first responder radio—Terrestrial Trunked Radio (TETRA) and "P25" standards. This is a clarification and does not change the license requirements or license exception eligibility for public safety/first responder radios.

Revisions for Harmonization Purposes

For national security reasons, this rule maintains all existing licensing requirements for exports and reexports of "cryptanalytic items" (*i.e.,* cryptanalytic commodities, software, and technology.) This rule adds new note 3 to the introductory paragraph of section 740.17(b)(2) and new section 740.17(b)(2)(ii) (formerly § 740.17(b)(2)(iv)) to clarify that exports and reexports of "cryptanalytic items" require encryption registration and encryption classification requests, with no wait, to be eligible for License Exception ENC to non-"government end-users" located or headquartered in countries listed in Supplement No. 3 to part 740, and that the export or reexport of cryptanalytic commodities and software (listed in new section 740.17(b)(2)(ii)) require submission of an encryption registration and a 30-day classification request before being eligible for License Exception ENC to non-"government end-users" located or headquartered in a country not listed in Supplement No. 3 to part 740 of the EAR. On account of the utmost sensitivity of cryptanalytic technology transfers, cryptanalytic "technology" classified under ECCN 5E002 is only License Exception ENC eligible to non-"government end-users" located or headquartered in Supplement No. 3 to part 740 countries.

This rule adds a new section 740.17(b)(2)(iv) to describe specific encryption technology. Prior to this rule, all encryption technology under ECCN 5E002 required an encryption review, with no wait, for exports under License Exception ENC to any end-users located or headquartered in countries listed in Supplement No. 3 to part 740. These provisions are maintained in Notes 1 and 3 to the introductory paragraph of section (b)(2). New section 740.17(b)(2)(iv) differentiates between "non-standard cryptography" and other encryption technology. Section 740.17(b)(2)(iv)(A) maintains the authorization for "non-standard cryptography" classified under ECCN 5E002 to be exported under License Exception ENC upon submission (*i.e.,* no wait) of an encryption classification request, including the submission of the answers to questions contained in Supplement No. 5 and Supplement No. 6 to part 742, to any end-user located or headquartered in a country listed in Supplement No. 3 to part 740 of the EAR. Section 740.17(b)(2)(iv)(B) authorizes the use of License Exception ENC for the export of technology other than technology for "cryptanalytic items," "non-standard cryptography" or "open cryptographic interfaces" to any non-"government end-user" located in a country not listed in Country Group D:1 or E:1 of Supplement No. 1 to part 740, 30-days after submission of an encryption registration and an encryption classification request.

This rule also moves paragraphs in section 742.15 to align them with related paragraphs in section 740.17. For example, provisions for encryption components may be found in sections 740.17(b)(3)(i) and 742.15(b)(3)(i).

"Encryption Components" and "Non-Standard Cryptography"—Sections 740.17(b)(3) and 742.15(b)(3)

The requirement for submission of an encryption classification request and information described in Supplement No. 6 to part 742, and a 30-day wait, while BIS performs its review of these submissions remains in effect for all "encryption components," including mass market "encryption components," and for encryption commodities, software and components not described in section 740.17(b)(2) that provide or perform "non-standard cryptography," including mass market encryption commodities, software and components. "Encryption components" are defined in part 772, and this rule adds a new definition of "non-standard cryptography" in part 772. "Encryption components" are chips, chipsets, electronic assemblies and field programmable logic devices, cryptographic libraries, modules, development kits and toolkits, including for operating systems and cryptographic service providers and application-specific hardware or software development kits implementing cryptography. The requirements that these items continue to be subject to the 30-day encryption classification requests are set forth in sections 740.17(b)(3) and 742.15(b)(3). BIS and other agencies continue to study and discuss the impact of export controls on encryption components, including system software libraries, toolkits and electronic components having encryption functionality.

Cryptographic Enabling Commodities, Software and Components

This rule maintains the 30-day technical review requirement for commodities, software and components that activate or enable cryptographic functionality in encryption products which would otherwise remain disabled. Commodities, software and components for the cryptographic activation of most encryption products eligible for License Exception ENC (*i.e.,* §§ 740.17(b)(1), 740.17(b)(3)(ii) or 740.17(b)(3)(iii)) or mass market treatment (*i.e.,* §§ 742.15(b)(1) or 742.15(b)(3)(ii)) are covered in sections 740.17(b)(3)(iv) and 742.15(b)(3)(iv), respectively. Cryptographic activation items associated with restricted encryption commodities, software and components are covered under section 740.17(b)(2), as further explained by a note to paragraph (b)(2). Meanwhile, items described under sections 740.17(b)(3)(i) or 742.15(b)(3)(i) (including certain activation components and software) are covered by those sections as applicable.

Section 740.17(b)(4)—Exclusions From Classification Request and Encryption Registration Requirements

This rule removes all references to "ancillary cryptography" by removing the last sentence in paragraph (b)(4)(i) and removing paragraph (b)(4)(iv). This rule also removes the empty placeholder paragraph (b)(4)(iii). Items that were covered by the "ancillary cryptography" provisions are now excluded from control under Category 5 part 2 of the CCL with the addition of Note 4. An explanation of the changes to Note 4 are described in more detail below under the heading "Note 4 to Category 5, Part 2."

Reporting Requirements Under License Exception ENC

Prior to this rule, semi-annual (post-export) sales reporting was required for exports of most encryption commodities, software and components previously described in section 740.17(b)(3) to all destinations other than Canada, and for reexports from Canada, under License Exception ENC. This rule narrows the scope of this requirement to only apply to certain digital forensics items described under new section 740.17(b)(3)(iii). Therefore, this rule removes some of the exclusions from reporting requirement paragraphs that were formerly in paragraphs (A), (C), (H), (I) and (J) of section 740.17(e)(iii), because they are no longer necessary. When sales reporting is not required under License Exception ENC, companies need only maintain records as required by the EAR that can be reviewed by appropriate agencies of the U.S. Government upon request. The requirement for semi-annual sales reporting to BIS and the ENC Encryption Request Coordinator of encryption items described in section 740.17(b)(2) is maintained. As a result of these changes, BIS expects that the number of semi-annual reports submitted to BIS annually will be reduced from 400 to less than 100 submissions per year.

Section 742.15—Encryption Items

This rule removes all references to "ancillary cryptography" by removing the last sentence formerly in paragraph (b)(3)(i) and removing paragraph (b)(3)(iii). This rule also removes the empty placeholder formerly in paragraph (b)(3)(ii). With the new harmonization of paragraphs between sections 740.17 and 742.15, paragraph (b)(3)(i) is redesignated as paragraph (b)(4)(i).

This rule adds a new paragraph (b)(4)(ii) to exclude submission requirements under section 742.15 for reexports of US-origin mass market encryption commodities and software subject to the EAR or foreign origin products developed with or incorporating U.S.-origin mass market encryption source code, components or toolkits subject to the EAR, that have met the submission requirements in section 742.15. This paragraph is exactly the same as the paragraph in section 740.17(b)(4)(ii), which excludes submission requirements for reexports of US-origin encryption items subject to the EAR or foreign products developed with or incorporating U.S.-origin encryption source code, components or toolkits subject to the EAR, that have met the submission requirements in License Exception ENC under section 740.17.

Supplement No. 5 to Part 742

This rule removes all text of Supplement No. 5 to part 742 and replaces it with seven (7) questions of the "Encryption Registration." As discussed above under the topic heading "Immediate authorization for less sensitive encryption items and certain mass market encryption items with the submission of an encryption registration and subsequent self-classification annual report," an encryption registration is required for most exports under License Exception ENC, and to be eligible for mass market treatment under section 742.15(b)(1). The questions in Supplement No. 5 to part 742 ask for information about:

(1) The point of contact information;

(2) The company that exports the encryption items;

(3) The categories of the company's products;

(4) Whether the products incorporate or use proprietary, unpublished or non-standard cryptographic functionality;

(5) Whether the exporting company will export "encryption source code";

(6) Whether the products incorporate encryption components produced or furnished by non-U.S. sources or vendors; and

(7) Whether the products are manufactured outside the United States.

If the registrant is not the principal producer of encryption items, the registrant may answer questions 4 and 7 as "not applicable." For all other questions, an answer must be given, or if the registrant is unsure of the answer, the registrant may state that it is unsure and explain why it is unsure of the answer to the question.

Supplement No. 6 to Part 742

This rule reduces the instances when exporters are required to submit the information requested in Supplement No. 6 to part 742. Prior to this rule, exporters were required to submit the information in Supplement No. 6 to part 742 for every review request for License Exception ENC and mass market encryption products. With the publication of this rule, submission of the information in Supplement No. 6 to part 742 is now only required in support of a 30-day encryption classification request for specified items under License Exception ENC and mass market commodities, software and components (*i.e.,* restricted § 740.17(b)(2) items, specified components and digital forensics items, products that provide or perform "non-standard cryptography," and cryptographic enabling commodities and software). All other items under License Exception ENC and mass market items may receive immediate authorization with the submission of the encryption registration and annual self-classification report.

The title of Supplement No. 6 to part 742 is renamed "Technical Questionnaire for Encryption Items" (formerly "Guidelines for Submitting Review Requests for Encryption Items"). The text explaining how and where to submit a review request is removed because, as explained earlier in the preamble, this rule modifies submission requirements. This rule also harmonizes the text in Supplement No. 6 to part 742 with the new procedure of only submitting this information to BIS with classification requests, unless BIS specifically requests this information in support of an encryption registration or self-classification report. Paragraph (b) is removed because a duplicate submission to the ENC Encryption Request Coordinator and BIS is no longer necessary. The information now only needs to be submitted to BIS via SNAP–R. Paragraph (f) is removed as a consequence of removing the review request procedure. Therefore, paragraphs (c), (d) and (e) are now redesignated as paragraphs (b), (c) and (d). Also, newly designated paragraph (b)(11) (formerly paragraph (c)(11)) is revised to remove outdated text.

Supplement No. 8 to Part 742—Self-Classification Report

In order to protect the national security of the United States and verify the classification of encryption products exported pursuant to sections 740.17(b)(1) and 742.15(b)(1), this rule adds Supplement No. 8 to part 742 "Self-Classification Report" to collect information about such encryption products. Supplement No. 8 to part 742 sets forth questions that must be answered about each encryption item exported pursuant to sections 740.17(b)(1) and 742.15(b)(1). The information requested is:

(1) Name of product;

(2) Model/series/part number;

(3) Primary manufacturer;

(4) ECCN (5A002, 5B002, 5D002, 5A992 or 5D992);

(5) Encryption authorization (*i.e.,* 'ENC' for License Exception ENC or 'MMKT' for mass market); and

(6) Type descriptor to describe the product (chose one from a list of 49 options).

The self-classification report must be submitted as an attachment to an e-mail to BIS and the ENC Encryption Request Coordinator. Reports to BIS must be submitted to a newly created e-mail address for these reports (*crypt-supp8@bis.doc.gov*). Reports to the ENC Encryption Request Coordinator must be submitted to its existing e-mail address (*enc@nsa.gov*). The report has very specific format requirements outlined in Supplement No. 8 to part 742. The information in the report must be provided in tabular or spreadsheet form, as an electronic file in comma separated values format (.csv), only. No other formats other than .csv will be accepted. In lieu of e-mail, submissions of disks and CDs may be mailed to BIS and the ENC Encryption Request Coordinator as specified in section 742.15(c)(2)(ii). A self-classification report for applicable encryption commodities, software and components exported or reexported during a calendar year (January 1 through December 31) must be received by BIS and the ENC Encryption Request Coordinator no later than February 1 the following year. If no information has changed since the previous report, an e-mail must be sent stating that nothing has changed since the previous report or a copy of the previously submitted report must be submitted. No self-classification report is required if no exports or reexports of applicable items pursuant to an encryption registration were made during the calendar year.

Part 748—Application and Documentation

This rule revises the introductory paragraphs to sections 748.1(a) and (d) to replace references to "encryption review requests" with "encryption registration." The term "encryption review request" is removed and not replaced by "encryption registration" in section 748.1(d)(1)(i) because submitting only one encryption registration per year is not a valid reason for eligibility to submit manual applications to BIS. SNAP–R issues a specific Encryption Registration Number (ERN) for each encryption registration electronically submitted to BIS via SNAP–R, which is used to authorize exports and reexports under sections 740.17(b) and 742.15(b).

Section 748.3 is amended by revising the title and paragraphs (a) and (d) to coincide with the removal of review requests, addition of encryption registrations, and the narrowing of submission requirements.

This rule revises the paragraph entitled "Block 5: Type of Application" in Supplement No. 1 to part 748 by replacing the term "encryption review" with "encryption registration" in two cases. This rule also replaces a reference to "classification request" with "encryption registration" in one case, because encryption registrations will have a newly created screen in SNAP–R.

This rule also revises section 748.8(r) and paragraph (r) in Supplement No. 2 to part 748 to harmonize with the removal of review requests and new submission procedures for encryption registration and self-classification reports.

BIS has created a new SNAP–R screen for encryption registrations. The instructions for submitting an encryption registration is found in paragraph (r)(1) of Supplement No. 2 to part 748. In block 5 (Type of Application) of SNAP–R, selecting "encryption registration" will result in the appearance of the new encryption registration screen. On that screen blocks 1–5, 14, 15, 24, and 25 are to be completed, and a PDF must be attached that provides answers to Supplement No. 5 to part 742.

For classification requests for License Exception ENC or mass market encryption under section 742.15, BIS has added a new check box for block 9 (Special Purpose) on the classification request screen of SNAP–R. The new check box states "Check here if you are submitting information about encryption required by 740.17 or 742.15 of the EAR." When that box is checked, a drop down menu will display the following choices: License Exception ENC, Mass Market Encryption, or Encryption Other. This rule implements new procedures in paragraph (r)(2) of Supplement No. 2 to part 748 to address these changes in SNAP–R, as well as instructions about documents submitted with a classification request. In addition, there is an instruction to insert your most recent Encryption Registration Number (ERN) in Block 24 (Additional Information) of the encryption classification request.

Part 772—Definition of Terms

This rule removes the term "ancillary cryptography," the definition, nota bene, and related footnote from section 772.1 of the EAR, because the newly added Note 4 to Category 5, Part 2 removes the need for this definition.

This rule also removes the definition for "personalized smart card" from section 772.1 because Note (a) of Export Control Classification Number (ECCN) 5A002, which used the term "personalized smart card," has been replaced by new text that does not use the term.

Supplement No. 1 to Part 774—Commerce Control List

Note 4 to Category 5, Part 2

This rule adds a new Note 4 to Category 5, Part 2 to exclude certain items incorporating or using "cryptography" from control under Category 5, Part 2. Specifically, the note excludes an item that incorporates or uses "cryptography" from Category 5, Part 2 control if the item's primary function or set of functions is not "information security," computing, communications, storing information, or networking, and if the cryptographic functionality is limited to supporting such primary function or set of functions. The primary function is the obvious, or main, purpose of the item. It is the function which is not there to support other functions. The "communications" and "information storage" primary function does not include items that support entertainment, mass commercial broadcasts, digital rights management or medical records management.

The items excluded from Category 5, Part 2 controls by Note 4 have been determined not to be of national security concern due to their encryption functionality. Items that are covered by Note 4 should be evaluated under other categories of the CCL (Supplement No. 1 to part 774 of the EAR) to determine if any other controls apply. For example, a camera system that incorporates encryption would be evaluated under Category 6 of the CCL; a chemical analysis software program that incorporates encryption would be evaluated under Category 2. If the result of this evaluation is that the item is not controlled under another category of the CCL (*e.g.,* a refrigerator), the item is designated as EAR99.

Note 4 to Category 5, Part 2 covers certain items that were previously excluded from control under ECCN 5A002 by one or more paragraphs of the exclusion Note to ECCN 5A002. Specifically, the scope of Note 4 includes items previously covered in paragraphs (b), (c) and (h) of the Note to ECCN 5A002. The exclusion Note to ECCN 5A002 provides that the items listed in paragraph (a) through (i) to the Note are controlled under ECCN 5A992. With the addition of Note 4 to Category 5, Part 2 upon the effective date of this rule, the items previously covered in paragraphs (b), (c) and (h) of the exclusion Note to ECCN 5A002 are no longer controlled under Category 5, Part 2 (by virtue of the new Note 4, irrespective of the Note to ECCN 5A002), and are therefore classified under another category of the CCL or designated as EAR99.

The scope of Note 4 is coextensive with the scope of the "ancillary cryptography" provisions that were added to the EAR on October 3, 2008. Under that amendment, commodities and software that perform "ancillary cryptography" remained controlled under Category 5, Part 2, but were exempted from review and reporting requirements under License Exception ENC (§ 740.17 of the EAR) and the mass market provisions of section 742.15 of the EAR.

Items that were self-classified or classified by BIS as "ancillary cryptography" items after October 3, 2008 are, upon the effective date of this rule, no longer classified under Category 5, Part 2. In addition, items that were self-classified or classified by BIS under ECCN 5A992 or 5D992 based on former paragraphs (b), (c) or (h) of the note to ECCN 5A002 are, upon the effective date of this rule, no longer classified under Category 5, Part 2. Exporters should re-classify such items under other categories of the CCL or designate as EAR99, as appropriate.

Examples of items that are excluded from Category 5, Part 2 by Note 4 include, but are not limited to, the following: Piracy and theft prevention for software or music; games and gaming; household utilities and appliances; printing, reproduction, imaging and video recording or playback (not videoconferencing); business process modeling and

automation (*e.g.,* supply chain management, inventory, scheduling and delivery); industrial, manufacturing or mechanical systems (*e.g.,* robotics, heavy equipment, facilities systems such as fire alarm, HVAC); automotive, aviation, and other transportation systems; LCD TV, Blu-ray/DVD, video on demand (VoD), cinema, digital video recorders (DVRs)/personal video recorders (PVRs); on-line media guides, commercial content integrity and protection, HDMI and other component interfaces; medical/clinical—including diagnostic applications, patient scheduling, and medical data records confidentiality; academic instruction and testing/on-line training—tools and software; applied geosciences—mining/drilling, atmospheric sampling/weather monitoring, mapping/surveying, dams/hydrology; scientific visualization/simulation/co-simulation (excluding such tools for computing, networking, or cryptanalysis); data synthesis tools for social, economic, and political sciences (*e.g.,* economic, population, global climate change, public opinion polling, forecasting and modeling); software and hardware design IP protection; and computer aided design (CAD) software and other drafting tools.

ECCN 5A002

This rule revises the Related Controls paragraph in ECCN 5A002 to reflect the deletion of paragraphs from the Note in the beginning of the Items paragraph of 5A002. The Note at the beginning of the Items paragraph of 5A002 is amended by: Replacing paragraph (a) to remove from 5A002 control certain smart card readers/writers, and to add definitions for 'personal data' and 'readers/writers;' removing paragraphs (b), (c) and (h) because they are now covered by newly added Note 4 to Category 5, Part 2; deleting "other specially designed" before components, and adding "specially designed for information security" to the end of 5A002.a to clarify the text; and deleting a parenthetical reference to "GPS or GLONASS" in the nota bene, following 5A002.a, to clarify the text.

Supplement No. 3 to Part 774—Statements of Understanding

Because the length of Supplement No. 3 to part 774 is expanding, the need for paragraph designations is necessary. Therefore, this rule adds paragraph designations for each of the statements of understanding. This rule also adds a new statement of understanding that relates to Note 4 of Category 5, Part 2. The new statement of understanding is simply a copy of the text that previously appeared in note (h) of ECCN 5A002, which is removed by this rule, that provides the public a reference of the specific details about portable or mobile radiotelephones and similar client wireless devices that are now encompassed under the new Note 4 of Category 5, Part 2.

Grandfathering

For encryption commodities, software and components described in, or otherwise meeting the specifications of sections 740.17(b) and 742.15(b), effective June 25, 2010, such items reviewed and classified by BIS prior to June 25, 2010 are authorized for export and reexport under the applicable provisions of sections 740.17(b) and 742.15(b), as amended upon publication of this rule, using the CCATS previously issued by BIS, without any encryption registration (*i.e.,* the information described in Supplement No. 5 to this part), new classification by BIS, self-classification reporting (*i.e.,* the information described in Supplement No. 8 to part 742), or semi-annual sales reporting required under section 740.17(e) provided the cryptographic functionality of the item has not changed. These grandfathering provisions do not apply to particular commodities and software previously made eligible for License Exception ENC under former paragraph (b)(3) that are now listed in paragraph (b)(2) and therefore require a license to certain "government end-users" outside the countries listed in Supplement No. 3 to part 740. These grandfathering provisions also do not apply if the encryption functionality has changed since the encryption product was last classified by BIS, as specified in 740.17(d)(1)(iii) and 742.15(b)(7)(i)(C).

Export Administration Act

Since August 21, 2001, the Export Administration Act has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 13, 2009 (74 FR 41325 (August 14, 2009)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*).

Rulemaking Requirements

1. This rule has been determined to be significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule involves a collection of information that has been approved by the OMB under control number 0694–0088, "Multi-Purpose Application," which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. This rule amends a collection that has been approved by the Office of Management and Budget under control number 0694–0104, "Commercial Encryption Items Under the Jurisdiction of the Department of Commerce" by adding two new submissions: "Encryption registration" and "self-classification report." Although the changes in this rule increase the number of collections under 0694–0104, the burden hour estimate is decreased from 7 hours to 1.9 hours per submission (manual or electronic). Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to Jasmeet Seehra, OMB Desk Officer, by e-mail at *Jasmeet_K._Seehra@omb.eop.gov* or by fax to (202) 395–7285; and to the Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Ave., NW., Room 2705, Washington, DC 20230.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. Pursuant to 5 U.S.C. 553(a)(1), the provisions of this rule amending the Commerce Control List (Note 4 to Category 5 part 2), the Statements of Understanding (Supplement No. 3 to Part 774), and the definitions provisions (Part 772) of the EAR are exempt from the provision of the Administrative Procedure Act (5 U.S.C. 553) (APA) requiring notice and an opportunity for public comment because this regulation involves a military and foreign affairs function of the United States. Immediate implementation of these amendments fulfills the United States' international obligation to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual Use Goods and Technologies (Wassenaar Arrangement or WA). The Wassenaar Arrangement contributes to international security and regional stability by promoting greater responsibility in transfers of

conventional arms and dual use goods and technologies, thus preventing destabilizing accumulations of such items. The Wassenaar Arrangement consists of 40 member countries that act on a consensus basis and this change was approved at the 2009 plenary session of the WA. Since the United States is a significant exporter of encryption items, implementation of this provision is necessary for the WA to achieve its purpose. Any delay in implementation will create a disruption in the movement of affected items globally because of the disharmony between export control regulations, resulting in tension between member countries. Export controls work best when all countries implement the same export controls in a timely manner. Any delay in implementation would injure the credibility of the United States in this and other multilateral regimes. If notice and comment precedes, rather than follows, the promulgation of this rule, the delays associated with soliciting comments will result in the inability of the United States to fulfill its commitment to the WA.

For the other provisions of this rule, the Department has determined that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring notice and the opportunity for public comment when doing so is contrary to the public interest. This rule expedites the process for eligibility for use of a license exception for the export of encryption items, while maintaining the effectiveness of authorizations previously issued. If this rule is delayed to allow for prior notice and opportunity for public comment, U.S. industry would continue to be subject to a more burdensome licensing process than necessary for the export of encryption items. Because this rule will ensure the competitiveness of U.S. industry, delaying the effectiveness of this rule is contrary to the public interest.

For the reasons listed above, good cause exists to waive the 30-day delay in effectiveness otherwise required by the APA. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim final rule. Accordingly, no regulatory flexibility analysis is required and none has been prepared. Although notice and opportunity for comment are not required, BIS is issuing this rule in interim final form and is seeking public comments on these revisions.

The period for submission of comments will close August 24, 2010. BIS will consider all comments received before the close of the comment period in developing a final rule. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. BIS will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. BIS will return such comments and materials to the persons submitting the comments and will not consider them in the development of the final rule. All public comments on this interim rule must be in writing (including fax or e-mail) and will be a matter of public record, available for public inspection and copying. The Office of Administration, Bureau of Industry and Security, U.S. Department of Commerce, displays these public comments on BIS's Freedom of Information Act (FOIA) Web site at *http://www.bis.doc.gov/foia.* This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this Web site, please call BIS's Office of Administration at (202) 482–0953 for assistance.

List of Subjects

15 CFR Part 730

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR Part 734

Administrative practice and procedure, Exports, Inventions and patents, Research Science and technology.

15 CFR Parts 738 and 772

Exports.

15 CFR Parts 740 and 748

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 774

Exports, Reporting and recordkeeping requirements.

■ Accordingly, Parts 730, 734, 738, 740, 742, 748, 772 and 774 of the EAR (15 CFR Parts 730–774) are amended as follows:

PART 730—[AMENDED]

■ 1. The authority citation for part 730 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 179; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 12981, 60 FR 62981, 3 CFR, 1995 Comp., p. 419; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13338, 69 FR 26751, May 13, 2004; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009); Notice of November 6, 2009, 74 FR 58187 (November 10, 2009).

■ 2. Supplement No. 1 is amended by removing the title for collection number 0694–0104 and adding in its place "Commercial Encryption Items under Commerce Jurisdiction."

PART 734—[AMENDED]

■ 3. The authority citation for part 734 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009); Notice of November 6, 2009, 74 FR 58187 (November 10, 2009).

■ 4. Section 734.4 is amended by revising paragraph (b)(1)(ii), (b)(1)(iii), and (b)(1)(iv), and adding a new paragraph (b)(1)(v), to read as follows:

§ 734.4 De minimis U.S. content.

* * * * *

(b) * * *

(1) * * *

(ii) Authorized for License Exception ENC by BIS after classification pursuant to § 740.17(b)(3) of the EAR;

(iii) Authorized for License Exception ENC by BIS after classification pursuant to § 740.17(b)(2) of the EAR, and the foreign made product will not be sent to any destination in Country Group E:1 in Supplement No. 1 to part 740 of the EAR;

(iv) Authorized for License Exception ENC pursuant to § 740.17(b)(4) of the EAR; or

(v) Authorized for License Exception ENC after submission of an encryption registration pursuant to § 740.17(b)(1) of the EAR.

* * * * *

PART 738—[AMENDED]

■ 5. The authority citation for part 738 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 6. Section 738.4 is amended by revising the third and fourth sentences in paragraph (a)(2)(ii)(B) to read as follows:

§ 738.4 Determining whether a license is required.

(a) * * *

(2) * * *

(ii) * * *

(B) * * * For example, any applicable encryption registration and classification requirements described in § 742.15(b) of the EAR must be met for certain mass market encryption items to effect your shipment using the symbol "NLR." Proceed to parts 758 and 762 of the EAR for information on export clearance procedures and recordkeeping requirements. * * *

* * * * *

PART 740—[AMENDED]

■ 7. The authority citation for part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 8. Section 740.17 is revised to read as follows:

§ 740.17 Encryption commodities, software and technology (ENC).

License Exception ENC authorizes export and reexport of systems, equipment, commodities and components therefor that are classified under ECCNs 5A002.a.1, a.2, a.5, a.6 or a.9, systems, equipment and components therefor classified under ECCN 5B002, and equivalent or related software and technology classified under ECCNs 5D002 or 5E002. This License Exception ENC does not authorize export or reexport to, or provision of any service in any country listed in Country Group E:1 in Supplement No. 1 to part 740 of the EAR, or release of source code or technology to any national of a country listed in Country Group E:1. Reexports and transfers under License Exception ENC are subject to the criteria set forth in paragraph (c) of this section. Paragraphs (b) and (d) of this section set forth information about encryption registrations and classifications required by this section. Paragraph (e) sets forth reporting required by this section. For items exported under paragraphs (b)(1), (b)(3)(i), (b)(3)(ii) or (b)(3)(iv) of this section and therefore excluded from paragraph (e) reporting requirements, exporters are reminded of the recordkeeping requirements in part 762 of the EAR and that they may be required to make such records available upon request. All classification requests, registrations, and reports submitted to BIS pursuant to this section for encryption items will be reviewed by the ENC Encryption Request Coordinator, Ft. Meade, MD.

(a) *No classification request, registration or reporting required.*

(1) *Internal "development" or "production" of new products.* License Exception ENC authorizes exports and reexports of items described in paragraph (a)(1)(i) of this section, to end-users described in paragraph (a)(1)(ii) of this section, for the intended end-use described in paragraph (a)(1)(iii) of this section without submission of encryption registration, classification request, self-classification report or sales report to BIS.

(i) *Eligible items.* Eligible items are those classified under ECCNs 5A002.a.1, .a.2, .a.5, .a.6, or .a.9, ECCN 5B002, and equivalent or related software and technology classified under ECCNs 5D002 or 5E002.

(ii) *Eligible End-users.* Eligible end-users are "private sector end-users" wherever located that are headquartered in a country listed in Supplement No. 3 of this part.

Note to paragraph (a)(1)(ii): A "private sector end-user" is:

(1) An individual who is not acting on behalf of any foreign government; or

(2) A commercial firm (including its subsidiary and parent firms, and other subsidiaries of the same parent) that is not wholly owned by, or otherwise controlled by or acting on behalf of, any foreign government.

(iii) *Eligible End-use.* The eligible end-use is internal "development" or "production" of new products by those end-users.

Note to paragraph (a)(1)(iii): All items produced or developed with items exported or reexported under this paragraph (a)(1) are subject to the EAR. These items may require the submission of a classification request or encryption registration before sale, reexport or transfer, unless otherwise authorized by license or license exception.

(2) *Exports and reexports to "U.S. Subsidiaries."* License Exception ENC authorizes export and reexport of systems, equipment, commodities and components therefor classified under ECCNs 5A002.a.1, .a.2, .a.5, .a.6, or .a.9, systems, equipment, and components therefor classified under ECCN 5B002, and equivalent or related software and technology classified under ECCNs 5D002 or 5E002, to any "U.S. subsidiary," wherever located without submission of an encryption registration, classification request, self-classification report or sales report to BIS. License Exception ENC also authorizes export or reexport of such items by a U.S. company and its subsidiaries to foreign nationals who are employees, contractors or interns of a U.S. company or its subsidiaries if the items are for internal company use, including the "development" or "production" of new products, without prior review by the U.S. Government.

Note to paragraph (a)(2): All items produced or developed with items exported or reexported under this paragraph (a)(2) are subject to the EAR. These items may require the submission of a classification request or encryption registration before sale, reexport or transfer to non-"U.S. subsidiaries," unless otherwise authorized by license or license exception.

(b) *Encryption registration required, with classification request or self-classification report.* Exports and reexports authorized under paragraphs (b)(1), (b)(2) and (b)(3) of License Exception ENC require submission of an encryption registration in accordance with paragraph (d) of this section and the specific instructions of paragraph (r)(1) of Supplement No. 2 to part 748 of the EAR. In addition: for paragraph (b)(1) of this section a self-classification report in accordance with § 742.15(c) of the EAR is also required from specified exporters and reexporters; for paragraphs (b)(2) and (b)(3) of this section, a thirty-day (30-day) classification request is required in accordance with paragraph (d) of this section. *See* paragraph (f) of this section for grandfathering provisions applicable to certain encryption items reviewed and classified by BIS under this license exception prior to June 25, 2010. Only License Exception ENC authorizations under this paragraph (b) to a company that has fulfilled the requirements of encryption registration (such as the producer of the item) authorize the

export and reexport of the company's encryption items by all persons, wherever located, under this license exception. When an exporter or reexporter relies on the producer's self-classification (pursuant to the producer's encryption registration) or CCATS for an encryption item eligible for export or reexport under License Exception ENC under paragraph (b)(1), (b)(2), or (b)(3) of this section, it is not required to submit an encryption registration, classification request or self-classification report. Exporters are still required to comply with semi-annual sales reporting requirements under paragraph (e) of this section, even if relying on a CCATS issued to a producer for specified encryption items described in paragraphs (b)(2) and (b)(3)(iii) of this section.

(1) *Immediate authorization.* Once an encryption registration is submitted to BIS in accordance with paragraph (d) of this section and an Encryption Registration Number (ERN) has been issued, this paragraph (b)(1) authorizes the exports or reexports of the associated commodities classified under ECCNs 5A002.a.1, .a.2, .a.5, .a.6, or .a.9, or ECCN 5B002, and equivalent or related software classified under ECCN 5D002, except any such commodities, software or components described in (b)(2) or (b)(3) of this section, subject to submission of a self-classification report in accordance with § 742.15(c) of the EAR.

(2) *Classification request required.* Thirty (30) days after the submission of a classification request with BIS in accordance with paragraph (d) of this section and subject to the reporting requirements in paragraph (e) of this section, this paragraph under License Exception ENC authorizes certain exports or reexports of the items submitted for classification, as further described in paragraphs (b)(2)(i), (b)(2)(ii) and (b)(2)(iv)(B) of this section.

Note to introductory text of paragraph (b)(2): Immediately after the classification request is submitted to BIS in accordance with paragraph (d) of this section and subject to the reporting requirements in paragraph (e) of this section, this paragraph also authorizes exports or reexports of:

1. All submitted encryption items described in this paragraph (b)(2), except "cryptanalytic items," to any end-user located or headquartered in a country listed in Supplement No. 3 to this part;

2. Encryption source code as described in paragraph (b)(2)(i)(B) to non-"government end-users" in any country;

3. "Cryptanalytic items" to non-"government end-users", only, located or headquartered in a country listed in Supplement No. 3 to this part; and

4. Items described in paragraphs (b)(2)(iii) and (b)(2)(iv)(A) of this section, to specified destinations and end-users.

(i) *Cryptographic commodities, software and components.* The following items to non-"government end-users" located or headquartered in a country not listed in Supplement No. 3 to this part:

(A) Network infrastructure software and commodities and components thereof (including commodities and software necessary to activate or enable cryptographic functionality in network infrastructure products) providing secure Wide Area Network (WAN), Metropolitan Area Network (MAN), Virtual Private Network (VPN), satellite, digital packet telephony/media (voice, video, data) over Internet protocol, cellular or trunked communications meeting any of the following with key lengths exceeding 80-bits for symmetric algorithms:

(*1*) Aggregate encrypted WAN, MAN, VPN or backhaul throughput (including communications through wireless network elements such as gateways, mobile switches, and controllers) greater than 90 Mbps;

(*2*) Wire (line), cable or fiber-optic WAN, MAN or VPN single-channel input data rate exceeding 154 Mbps;

(*3*) Transmission over satellite at data rates exceeding 10 Mbps;

(*4*) Media (voice/video/data) encryption or centralized key management supporting more than 250 concurrent encrypted data channels, or encrypted signaling to more than 1,000 endpoints, for digital packet telephony/media (voice/video/data) over Internet protocol communications; or

(*5*) Air-interface coverage (*e.g.,* through base stations, access points to mesh networks, and bridges) exceeding 1,000 meters, where any of the following applies:

(*i*) Maximum transmission data rates exceeding 10 Mbps (at operating ranges beyond 1,000 meters);

(*ii*) Maximum number of concurrent full-duplex voice channels exceeding 30; or

(*iii*) Substantial support is required for installation or use;

(B) Encryption source code that would not be eligible for export or reexport under License Exception TSU because it is not publicly available as that term is used in § 740.13(e)(1) of the EAR;

(C) Encryption software, commodities and components therefor, that have any of the following:

(*1*) Been designed, modified, adapted or customized for "government end-user(s)";

(*2*) Cryptographic functionality that has been modified or customized to customer specification; or

(*3*) Cryptographic functionality or "encryption component" (except encryption software that would be considered publicly available, as that term is used in § 740.13(e)(1) of the EAR) that is user-accessible and can be easily changed by the user;

(D) Encryption commodities and software that provide functions necessary for quantum cryptography, as defined in ECCN 5A002 of the Commerce Control List;

(E) Encryption commodities and software that have been modified or customized for computers classified under ECCN 4A003;

(F) Encryption commodities and software that provide penetration capabilities that are capable of attacking, denying, disrupting or otherwise impairing the use of cyber infrastructure or networks;

(G) Public safety/first responder radio (*e.g.,* implementing Terrestrial Trunked Radio (TETRA) and/or Association of Public-Safety Communications Officials International (APCO) Project 25 (P25) standards);

(ii) *Cryptanalytic commodities and software.* Commodities and software classified as "cryptanalytic items" to non-"government end-users" located or headquartered in countries not listed in Supplement No. 3 to this part;

(iii) "*Open cryptographic interface*" *items.* Items that provide an "open cryptographic interface", to any end-user located or headquartered in a country listed in Supplement No. 3 to this part.

(iv) *Specific encryption technology.* Specific encryption technology as follows:

(A) *Technology for* "*non-standard cryptography.*" Encryption technology classified under ECCN 5E002 for "non-standard cryptography," to any end-user located or headquartered in a country listed in Supplement No. 3 to this part;

(B) *Other technology.* Encryption technology classified under ECCN 5E002 except technology for "cryptanalytic items," "non-standard cryptography" or any "open cryptographic interface," to any non-"government end-user" located in a country not listed in Country Group D:1 or E:1 of Supplement No. 1 to part 740 of the EAR.

Note to paragraph (b)(2): Commodities, software, and components that allow the end-user to activate or enable cryptographic functionality in encryption products which would otherwise remain disabled, are controlled according to the functionality of the activated encryption product.

(3) *Classification request required for specified commodities, software and components.* Thirty (30) days after a classification request is submitted to BIS in accordance with paragraph (d) of this section and subject to the reporting requirements in paragraph (e) of this section, this paragraph authorizes exports or reexports of the items submitted for classification, as further described in this paragraph (b)(3), to any end-user, provided the item does not perform the functions, or otherwise meet the specifications, of any item described in paragraph (b)(2) of this section.

Note to introductory text of paragraph (b)(3): Immediately after the classification request is submitted to BIS in accordance with paragraph (d) of this section and subject to the reporting requirements in paragraph (e) of this section, this paragraph also authorizes exports or reexports of the items described in this paragraph (b)(3) to any end-user located or headquartered in a country listed in Supplement No. 3 to this part.

(i) Specified components classified under ECCN 5A002.a.1, .a.5 or .a.6 and equivalent or related software classified under ECCN 5D002 not described by paragraph (b)(2) of this section, as follows:

(A) Chips, chipsets, electronic assemblies and field programmable logic devices;

(B) Cryptographic libraries, modules, development kits and toolkits, including for operating systems and cryptographic service providers (CSPs);

(C) Application-specific hardware or software development kits implementing cryptography.

(ii) Encryption commodities, software and components not described by paragraph (b)(2) of this section, that provide or perform "non-standard cryptography" as defined in part 772 of the EAR.

(iii) Encryption commodities and software not described by paragraph (b)(2) of this section, that provide or perform vulnerability analysis, network forensics, or computer forensics functions characterized by any of the following:

(A) Automated network analysis, visualization, or packet inspection for profiling network flow, network user or client behavior, or network structure/topology and adapting in real-time to the operating environment; or

(B) Investigation of data leakage, network breaches, and other malicious intrusion activities through triage of captured digital forensic data for law enforcement purposes or in a similarly rigorous evidentiary manner.

(iv) *Cryptographic enabling commodities and software.* Commodities and software and components that activate or enable cryptographic functionality in encryption products which would otherwise remain disabled, where the product or cryptographic functionality is not otherwise described in paragraphs (b)(2) or (b)(3)(i) of this section.

(4) *Exclusions from classification request, encryption registration and self-classification reporting requirements.* License Exception ENC authorizes the export and reexport of the commodities and software described in this paragraph (b)(4) without the submission of a classification request, encryption registration or self-classification report to BIS, except that paragraph (b)(4)(ii) of this section does not authorize exports from the United States of foreign products developed with or incorporating U.S.-origin encryption source code, components, or toolkits.

(i) *Short-range wireless encryption functions.* Commodities and software that are not otherwise controlled in Category 5, but are nonetheless classified under ECCN 5A002, 5B002 or 5D002 only because they incorporate components or software that provide short-range wireless encryption functions (*e.g.,* with a nominal operating range not exceeding 100 meters according to the manufacturer's specifications, designed to comply with the Institute of Electrical and Electronic Engineers (IEEE) 802.11 wireless LAN standard or the IEEE 802.15.1 standard).

Note to paragraph (b)(4)(i): An example of what this paragraph authorizes for export without classification, registration or self-classification reporting is a laptop computer that without encryption would be classified under ECCN 4A994, and the Category 5, Part 2-controlled components of the laptop only implement short-range wireless encryption functionality. On the other hand, this paragraph (b)(4)(i) does not apply to any commodities or software that would still be classified under an ECCN in Category 5 even if the short-range wireless encryption functionality were removed. For example, certain access points, gateways and bridges are classified under ECCN 5A991 without encryption functionality, and components for mobile communication equipment are classified under ECCN 5A991.g without encryption functionality. Such items, when implementing cryptographic functionality controlled by Category 5, Part 2 are not excluded from encryption classification, registration or self-classification reporting by this paragraph.

(ii) *Foreign products developed with or incorporating U.S.-origin encryption source code, components, or toolkits.* Foreign products developed with or incorporating U.S.-origin encryption source code, components or toolkits that are subject to the EAR, provided that the U.S.-origin encryption items have previously been classified or registered and authorized by BIS and the cryptographic functionality has not been changed. Such products include foreign-developed products that are designed to operate with U.S. products through a cryptographic interface.

(c) *Reexport and transfer.* U.S. or foreign distributors, resellers or other entities who are not original manufacturers of encryption commodities and software are permitted to use License Exception ENC only in instances where the export or reexport meets the applicable terms and conditions of this section. Transfers of encryption items listed in paragraph (b)(2) of this section to "government end-users," or for government end-uses, within the same country are prohibited, unless otherwise authorized by license or license exception.

(d) *Encryption registration and classification request procedures.*

(1) *Submission requirements and instructions.* To submit an encryption registration or classification request to BIS, you must submit an application to BIS in accordance with the procedures described in §§ 748.1 and 748.3 of the EAR and the instructions in paragraph (r) of Supplement No. 2 to part 748 "Unique Application and Submission Requirements," along with other required information as follows:

(i) *Encryption registrations in support of encryption classification requests and self-classification reports.* You must submit the applicable information as described in Supplement No. 5 to part 742 of the EAR and follow the specific instructions of paragraph (r)(1) of Supplement No. 2 to part 748 of the EAR, if any of the following apply:

(A) This is your first time submitting an encryption classification request under paragraphs (b)(2) or (b)(3) of this section since August 24, 2010;

(B) You are making an encryption item eligible for export and reexport (including as defined for encryption software in § 734.2(b)(9) of the EAR) under paragraph (b)(1) of this section for the first time since August 24, 2010; or

(C) If you have not otherwise provided BIS the information described in Supplement No. 5 to part 742 during the current calendar year and your answers to the questions in Supplement No. 5 to part 742 have changed since the last time you provided answers to the questions.

(ii) *Technical information submission requirements.* In addition to the encryption registration requirements of paragraph (d)(1)(i) of this section, for all submissions of encryption classification requests for items described under

paragraph (b)(2) or (b)(3) of this section, you must also provide BIS the applicable information described in paragraphs (a) through (d) of Supplement No. 6 to part 742 of the EAR (Technical Questionnaire for Encryption Items). For items authorized after submission of an encryption registration under paragraph (b)(1) of this section, you may be required to provide BIS this Supplement No. 6 to part 742 information on an as-needed basis, upon request by BIS.

(iii) *Changes in encryption functionality following a previous classification.* A new product encryption classification request (under paragraphs (b)(2) or (b)(3) of this section) or self-classification report (under paragraph (b)(1) of this section) is required if a change is made to the cryptographic functionality (*e.g.,* algorithms) or other technical characteristics affecting License Exception ENC eligibility (*e.g.,* encrypted throughput) of the originally classified product. However, a new product classification request or self-classification report is not required when a change involves: The subsequent bundling, patches, upgrades or releases of a product; name changes; or changes to a previously reviewed encryption product where the change is limited to updates of encryption software components where the product is otherwise unchanged.

(2) *Action by BIS.*

(i) *Encryption registrations for paragraph (b) of this section.* Upon submission to BIS of an encryption registration in accordance with paragraph (d)(1) of this section and acceptance of the application by SNAP–R, BIS will issue the Encryption Registration Number (ERN) via SNAP–R, which will constitute authorization for exports and reexports of eligible items under paragraph (b)(1) of this license exception.

(ii) *For items requiring classification by BIS under paragraphs (b)(2) and (b)(3) of this section.*

(A) For classifications that require a thirty (30) day waiting period, if BIS has not, within thirty-days (30-days) from registration in SNAP–R of your complete classification request, informed you that your item is not authorized for License Exception ENC, you may export or reexport under the applicable provisions of License Exception ENC.

(B) Upon completion of its classification, BIS will issue a Commodity Classification Automated Tracking System (CCATS) to you.

(C) *Hold Without Action (HWA) for classification requests.* BIS may hold your classification request without action if necessary to obtain additional information or for any other reason necessary to ensure an accurate classification. Time on such "hold without action" status shall not be counted towards fulfilling the thirty-day (30-day) processing period specified in this paragraph.

(iii) BIS may require you to supply additional relevant technical information about your encryption item(s) or information that pertains to their eligibility for License Exception ENC at any time, before or after the expiration of the thirty-day (30-day) processing period specified in this paragraph and in paragraphs (b)(2) and (b)(3) of this section, or after any registrations as required in paragraph (b)(1) of this section. If you do not supply such information within 14 days after receiving a request for it from BIS, BIS may return your classification request(s) without action or otherwise suspend or revoke your eligibility to use License Exception ENC for that item(s). At your request, BIS may grant you up to an additional 14 days to provide the requested information. Any request for such an additional number of days must be made prior to the date by which the information was otherwise due to be provided to BIS, and may be approved if BIS concludes that additional time is necessary.

(e) *Reporting requirements.*

(1) *Semi-annual reporting requirement.* Semi-annual reporting is required for exports to all destinations other than Canada, and for reexports from Canada for items described under paragraphs (b)(2) and (b)(3)(iii) of this section. Certain encryption items and transactions are excluded from this reporting requirement, *see* paragraph (e)(1)(iii) of this section. For information about what must be included in the report and submission requirements, *see* paragraphs (e)(1)(i) and (e)(1)(ii) of this section respectively.

(i) *Information required.* Exporters must include for each item, the Commodity Classification Automated Tracking System (CCATS) number and the name of the item(s) exported (or reexported from Canada), and the following information in their reports:

(A) *Distributors or resellers.* For items exported (or reexported from Canada) to a distributor or other reseller, including subsidiaries of U.S. firms, the name and address of the distributor or reseller, the item and the quantity exported or reexported and, if collected by the exporter as part of the distribution process, the end-user's name and address;

(B) *Direct Sales.* For items exported (or reexported from Canada) through direct sale, the name and address of the recipient, the item, and the quantity exported; or

(C) *Foreign manufacturers and products that use encryption items.* For exports (*i.e.,* from the United States) or direct transfers (*e.g.,* by a "U.S. subsidiary" located outside the United States) of encryption components, source code, general purpose toolkits, equipment controlled under ECCN 5B002, technology, or items that provide an "open cryptographic interface," to a foreign developer or manufacturer headquartered in a country not listed in Supplement No. 3 to this part when intended for use in foreign products developed for commercial sale, the names and addresses of the manufacturers using these encryption items and, if known, when the product is made available for commercial sale, a non-proprietary technical description of the foreign products for which these encryption items are being used (*e.g.,* brochures, other documentation, descriptions or other identifiers of the final foreign product; the algorithm and key lengths used; general programming interfaces to the product, if known; any standards or protocols that the foreign product adheres to; and source code, if available).

(ii) *Submission requirements.* For exports occurring between January 1 and June 30, a report is due no later than August 1 of that year. For exports occurring between July 1 and December 31, a report is due no later than February 1 the following year. These reports must be provided in electronic form. Recommended file formats for electronic submission include spreadsheets, tabular text or structured text. Exporters may request other reporting arrangements with BIS to better reflect their business models. Reports may be sent electronically to BIS at *crypt@bis.doc.gov* and to the ENC Encryption Request Coordinator at *enc@nsa.gov,* or disks and CDs containing the reports may be sent to the following addresses:

(A) Department of Commerce, Bureau of Industry and Security, Office of National Security and Technology Transfer Controls, 14th Street and Pennsylvania Ave., NW., Room 2705, Washington, DC 20230, Attn: Encryption Reports, and

(B) Attn: ENC Encryption Request Coordinator, 9800 Savage Road, Suite 6940, Ft. Meade, MD 20755–6000.

(iii) *Exclusions from reporting requirement.* Reporting is not required for the following items and transactions:

(A) [Reserved]

(B) Encryption commodities or software with a symmetric key length not exceeding 64 bits;

(C) Encryption items exported (or reexported from Canada) via free and anonymous download;

(D) Encryption items from or to a U.S. bank, financial institution or its subsidiaries, affiliates, customers or contractors for banking or financial operations;

(E) Items listed in paragraph (b)(4) of this section, unless it is a foreign item described in paragraph (b)(4)(ii) of this section that has entered the United States;

(F) Foreign products developed by bundling or compiling of source code;

(2) *Key length increases.* Reporting is required for commodities and software that, after having been classified and authorized for License Exception ENC in accordance with paragraphs (b)(2) or (b)(3) of this section, are modified only to upgrade the key length used for confidentiality or key exchange algorithms. Such items may be exported or reexported under the previously authorized provision of License Exception ENC without a classification resubmission.

(i) *Information required.*

(A) A certification that no change to the encryption functionality has been made other than to upgrade the key length for confidentiality or key exchange algorithms.

(B) The original Commodity Classification Automated Tracking System (CCATS) authorization number issued by BIS and the date of issuance.

(C) The new key length.

(ii) *Submission requirements.*

(A) The report must be received by BIS and the ENC Encryption Request Coordinator before the export or reexport of the upgraded product; and

(B) The report must be e-mailed to *crypt@bis.doc.gov* and *enc@nsa.gov.*

(f) *Grandfathering.* The following provisions apply to encryption items reviewed and classified by BIS under this license exception prior to June 25, 2010:

(1) *Items described in paragraphs (b)(1) or (b)(3) of this section.* For encryption commodities, software and components described in (or otherwise meeting the specifications of) paragraphs (b)(1) or (b)(3) of this section effective June 25, 2010, such items reviewed and classified by BIS prior to June 25, 2010 are authorized for export and reexport to eligible end-users and destinations under the applicable paragraph (b)(1) or (b)(3) of this license exception using the CCATS previously issued by BIS, without any encryption registration (*i.e.,* the information described in Supplement No. 5 to part 742 of the EAR), new classification by BIS, self-classification reporting (*i.e.,* the information described in Supplement No. 8 to part 742 of the EAR), or semi-annual sales reporting required under section 740.17(e) provided the cryptographic functionality of the item has not changed. *See* paragraph (d)(1)(iii) of this section regarding changes in encryption functionality following a previous classification.

(2) *Items described in paragraph (b)(2) of this section.*

(i) *Commodities, software and components described in paragraph (b)(2)(i) of this section.* For encryption commodities, software and components described in (or otherwise meeting the specifications of) paragraph (b)(2)(i) of this section effective June 25, 2010, such items reviewed and classified by BIS prior to June 25, 2010 are authorized for export and reexport to eligible end-users and destinations under paragraph (b)(2) of this license exception using the CCATS previously issued by BIS, without any encryption registration (*i.e.,* the information described in Supplement No. 5 to part 742 of the EAR) and new classification by BIS, provided the previous CCATS established License Exception ENC § 740.17(b)(2) treatment for the item and the cryptographic functionality of the item has not changed. *See* paragraph (d)(1)(iii) of this section regarding changes in encryption functionality following a previous classification. An encryption registration and updated classification must be submitted to BIS for items described in paragraph (b)(2)(i) of this section effective June 25, 2010 if the items were not previously classified under § 740.17(b)(2), even if the cryptographic functionality has not changed.

(ii) *Cryptoanalytic items, open cryptographic interface items, and encryption technology.* For items described in (or otherwise meeting the specifications of) paragraphs (b)(2)(ii), (b)(2)(iii) or (b)(2)(iv) of this section effective June 25, 2010, such items reviewed and classified by BIS prior to June 25, 2010 are authorized for export and reexport to eligible end-users and destinations under paragraph (b)(2) of this license exception using the CCATS previously issued by BIS, without any encryption registration (*i.e.,* the information described in Supplement No. 5 to part 742 of the EAR), new classification by BIS, or self-classification reporting (*i.e.,* the information described in Supplement No. 8 to part 742 of the EAR), provided the cryptographic functionality of the item has not changed. *See* paragraph (d)(1)(iii) of this section regarding changes in encryption functionality following a previous classification.

PART 742—[AMENDED]

■ 9. The authority citation for part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009); Notice of November 6, 2009, 74 FR 58187 (November 10, 2009).

■ 10. Section 742.15 is amended by revising the Note to paragraph (a), revising paragraph (b), and adding paragraphs (c) and (d) to read as follows:

§ 742.15 Encryption Items.

* * * * *

(a) * * *

Note to paragraph (a): Pursuant to Note 3 to Category 5 Part 2 of the Commerce Control List in Supplement No. 1 to Part 774, mass market encryption commodities and software may be released from "EI" and "NS" controls by submitting an encryption registration in accord with § 742.15(b) of the EAR. Once an encryption registration has been submitted to BIS and accepted in SNAP–R as indicated by the issuance of an Encryption Registration Number (ERN), then the commodities and software are classified under ECCNs 5A992 and 5D992 respectively and are no longer subject to "EI" and "NS" controls.

(b) *Encryption registration required, with classification request or self-classification report, for mass market encryption commodities, software and components with encryption exceeding 64 bits.* To be eligible for export and reexport under this paragraph (b), encryption commodities, software and components must qualify for mass market treatment under the criteria in the Cryptography Note (Note 3) of Category 5, Part 2 ("Information Security"), of the Commerce Control List (Supplement No. 1 to part 774 of the EAR), and employ a key length greater than 64 bits for the symmetric algorithm (or, for commodities and software not implementing any symmetric algorithms, employing a key length greater than 768 bits for asymmetric algorithms or greater than 128 bits for elliptic curve algorithms). Encryption items that are described in §§ 740.17(b)(2) or (b)(3)(iii) of the EAR do not qualify for mass market

treatment. This paragraph (b) does not authorize export or reexport to, or provision of any service in any country listed in Country Group E:1 in Supplement No. 1 to part 740 of the EAR. Exports and reexports authorized under paragraphs (b)(1) and (b)(3) of this section must be supported by an encryption registration in accordance with paragraph (b)(7) of this section and the specific instructions of paragraph (r)(1) of Supplement No. 2 to part 748 of the EAR. In addition, paragraphs (b)(1) and (b)(3) of this section set forth requirements pertaining to the classification of mass market encryption commodities and software. *See* paragraph (d) of this section for grandfathering provisions applicable to certain encryption items reviewed and classified by BIS under this section prior to June 25, 2010. All classification requests, registrations, and reports submitted to BIS pursuant to this section for encryption items will be reviewed by the ENC Encryption Request Coordinator, Ft. Meade, MD. Only mass market encryption authorizations under this paragraph (b) to a company that has fulfilled the requirements of encryption registration (such as the producer of the item) authorize the export and reexport of the company's encryption items by all persons, wherever located, under this section. When an exporter or reexporter relies on the producer's self-classification (pursuant to the producer's encryption registration) or CCATS for a mass market encryption item, it is not required to submit an encryption registration, classification request or self-classification report.

(1) *Immediate mass market authorization.* Once an encryption registration is submitted to BIS in accordance with paragraph (b)(7) of this section and an Encryption Registration Number (ERN) has been issued, this paragraph (b)(1) authorizes the exports or reexports of the associated mass market encryption commodities and software classified under ECCNs 5A992 or 5D992 using the symbol "NLR", except any such commodities, software or components described in (b)(3) of this section, subject to submission a self-classification report in accordance with paragraph (c) of this section.

(2) [Reserved]

(3) *Classification request required for specified mass market commodities, software and components.* Thirty-days (30-days) after the submission of a classification request to BIS in accordance with paragraph (b)(7) of this section, this paragraph (b)(3) authorizes exports and reexports of the mass market items submitted for classification, using the symbol "NLR", provided the items qualify for mass market treatment as described in paragraph (b) of this section and are classified by BIS under ECCNs 5A992 or 5D992:

Note to introductory text of paragraph (b)(3): Once a mass market classification request is accepted in SNAP–R, you may export and reexport the encryption commodity or software under License Exception ENC as ECCN 5A002 or 5D002, whichever is applicable, to any end-user located or headquartered in a country listed in Supplement No. 3 to part 740 as authorized by § 740.17(b) of the EAR, while the mass market classification request is pending review with BIS.

(i) Specified mass market encryption components as follows:

(A) Chips, chipsets, electronic assemblies and field programmable logic devices;

(B) Cryptographic libraries, modules, development kits and toolkits, including for operating systems and cryptographic service providers (CSPs);

(C) Application-specific hardware or software development kits implementing cryptography.

(ii) Mass market encryption commodities, software and components that provide or perform "non-standard cryptography" as defined in part 772 of the EAR.

(iii) [Reserved]

(iv) *Mass market cryptographic enabling commodities and software.* Commodities and software and components that themselves qualify for mass market treatment, and activate or enable cryptographic functionality in mass market encryption products which would otherwise remain disabled, where the product or cryptographic functionality is not otherwise described in paragraph (b)(3)(i) of this section.

(4) *Exclusions from mass market classification request, encryption registration and self-classification reporting requirements.* The following commodities and software do not require a submission of an encryption registration, classification request or self-classification report to BIS for export or reexport as mass market products:

(i) *Short-range wireless encryption functions.* Commodities and software that are not otherwise controlled in Category 5, but are nonetheless classified under ECCN 5A992 or 5D992 only because they incorporate components or software that provide short-range wireless encryption functions (*e.g.,* with a nominal operating range not exceeding 100 meters according to the manufacturer's specifications, designed to comply with the Institute of Electrical and Electronic Engineers (IEEE) 802.11 wireless LAN standard or the IEEE 802.15.1 standard).

Note to paragraph (b)(4)(i): An example of what this paragraph authorizes for export without classification, registration or self-classification reporting is a laptop computer that without encryption would be classified under ECCN 4A994, and the Category 5, Part 2-controlled components of the laptop only implement short-range wireless encryption functionality. On the other hand, this paragraph (b)(4)(i) does not apply to any commodities or software that would still be classified under an ECCN in Category 5 even if the short-range wireless encryption functionality were removed. For example, certain access points, gateways and bridges are classified under ECCN 5A991 without encryption functionality, and components for mobile communication equipment are classified under ECCN 5A991.g without encryption functionality. Such items, when implementing cryptographic functionality controlled by Category 5, Part 2 are not excluded from encryption classification, registration or self-classification reporting by this paragraph.

(ii) *Foreign products developed with or incorporating U.S.-origin encryption source code, components, or toolkits.* Foreign products developed with or incorporating U.S.-origin encryption source code, components or toolkits that are subject to the EAR, provided that the U.S.-origin encryption items have previously been classified or registered and authorized by BIS and the cryptographic functionality has not been changed. Such products include foreign-developed products that are designed to operate with U.S. products through a cryptographic interface.

(5) [Reserved]

(6) *Examples of mass market encryption products.* Subject to the requirements of the Cryptography Note (Note 3) in Category 5, Part 2, of the Commerce Control List, mass market encryption products include, but are not limited to, general purpose operating systems and desktop applications (*e.g.,* e-mail, browsers, games, word processing, database, financial applications or utilities) designed for use with computers classified as ECCN 4A994 or designated as EAR99, laptops, or hand-held devices; commodities and software for client Internet appliances and client wireless LAN devices; home use networking commodities and software (*e.g.,* personal firewalls, cable modems for personal computers, and consumer set top boxes); and portable or mobile civil telecommunications commodities and software (*e.g.,* personal data assistants (PDAs), radios, or cellular products).

(7) *Mass market encryption registration and classification request procedures.*

(i) *Submission requirements and instructions.* To submit an encryption registration or classification request to BIS for certain mass market encryption items under this paragraph (b), you must submit an application to BIS in accordance with the procedures described in §§ 748.1 and 748.3 of the EAR and the instructions in paragraph (r) of Supplement No. 2 to part 748 "Unique Application and Submission Requirements", along with other required information as follows:

(A) *Encryption registration in support of mass market encryption classification requests and self-classification reports.* You must submit the applicable information as described in Supplement No. 5 to this part and follow the specific instructions of paragraph (r)(1) of Supplement No. 2 to part 748 of the EAR, if any of the following apply:

(*1*) This is your first time submitting an encryption classification request under paragraph (b)(3) of this section since August 24, 2010;

(*2*) You are making a mass market encryption product eligible for export and reexport (including as defined for encryption software in § 734.2(b)(9) of the EAR) under paragraph (b)(1) of this section for the first time since August 24, 2010; or

(*3*) If you have not otherwise provided BIS the information described in Supplement No. 5 to this part during the current calendar year and your answers to the questions in Supplement No. 5 to this part have changed since the last time you provided answers to the questions.

(B) *Technical information submission requirements.* In addition to the registration requirements of paragraph (b)(7)(i)(A) of this section, for all submissions of encryption classification requests for mass market products described under paragraph (b)(3) of this section, you must also provide BIS the applicable information described in paragraphs (a) through (d) of Supplement No. 6 to this part (Technical Questionnaire for Encryption Items). For mass market products authorized after the submission of an encryption registration under paragraph (b)(1) of this section, you may be required to provide BIS this information described in Supplement No. 6 to this part on an as-needed basis, upon request by BIS.

(C) *Changes in encryption functionality following a previous classification.* A new mass market encryption classification request (under paragraph (b)(3) of this section) or self-classification (under paragraph (b)(1) of this section) is required if a change is made to the cryptographic functionality (*e.g.,* algorithms) or other technical characteristics affecting mass market eligibility (*e.g.,* performance enhancements to provide network infrastructure services, or customizations to end-user specifications) of the originally classified product. However, a new product classification request or self-classification is not required when a change involves: the subsequent bundling, patches, upgrades or releases of a product; name changes; or changes to a previously reviewed encryption product where the change is limited to updates of encryption software components where the product is otherwise unchanged.

(ii) *Action by BIS.*

(A) *Encryption registrations for mass market encryption items.* Upon submission to BIS of an encryption registration in accordance with paragraph (b)(7)(i) of this section and acceptance of the application by SNAP–R, BIS will issue the Encryption Registration Number (ERN) via SNAP–R, which will constitute authorization under this paragraph (b). Immediately upon receiving your ERN from BIS, you may export and reexport mass market encryption products described in paragraph (b)(1) of this section using the symbol "NLR".

(B) *For mass market items requiring classification by BIS under paragraph (b)(3) of this section.*

(*1*) For mass market encryption classifications that require a thirty (30)-day waiting period, if BIS has not, within thirty (30) days from acceptance in SNAP–R of your complete classification request, informed you that your item is not authorized as a mass market item, you may export and reexport under the applicable provisions of this paragraph (b). If, during the course of its review, BIS determines that your encryption items do not qualify for mass market treatment under the EAR, or are otherwise classified under ECCN 5A002, 5B002, 5D002 or 5E002, BIS will notify you and will review your items for eligibility under License Exception ENC (*see* § 740.17 of the EAR for review and reporting requirements for encryption items under License Exception ENC).

(*2*) Upon completion of its review, BIS will issue a Commodity Classification Automated Tracking System (CCATS) to you.

(*3*) *Hold Without Action (HWA) for mass market classification requests.* BIS may hold your mass market classification request without action if necessary to obtain additional information or for any other reason necessary to ensure an accurate classification. Time on such "hold without action" status shall not be counted towards fulfilling the thirty-day (30-day) processing period specified in this paragraph.

(C) BIS may require you to supply additional relevant technical information about your encryption item(s) or information that pertains to their eligibility as mass market products at any time, before or after the expiration of the thirty-day (30-day) processing period specified in this paragraph and in paragraph (b)(3) of this section, or after any registrations as required in paragraph (b)(1) of this section. If you do not supply such information within 14 days after receiving a request from BIS, BIS may return your classification request without action or otherwise suspend or revoke your eligibility to use mass market authorization for that item. At your request, BIS may grant you up to an additional 14 days to provide the requested information. Any request for such an additional number of days must be made prior to the date by which the information was otherwise due to be provided to BIS and may be approved if BIS concludes that additional time is necessary.

(c) *Self-classification reporting for certain encryption commodities, software and components.* This paragraph (c) sets forth requirements for self-classification reporting to BIS and the ENC Encryption Request Coordinator (Ft. Meade, MD) of encryption commodities, software and components exported or reexported pursuant to encryption registration under §§ 740.17(b)(1) or 742.15(b)(1) of the EAR. Reporting is required, effective June 25, 2010.

(1) *When to report.* Your self-classification report for applicable encryption commodities, software and components exported or reexported during a calendar year (January 1 through December 31) must be received by BIS and the ENC Encryption Request Coordinator no later than February 1 the following year.

(2) *How to report.* Encryption self-classification reports must be sent to BIS and the ENC Encryption Request Coordinator via e-mail or regular mail. In your submission, specify the export timeframe that your report spans and identify points of contact to whom questions or other inquiries pertaining to the report should be directed. Follow these instructions for your submissions:

(i) *Submissions via e-mail.* Submit your encryption self-classification report electronically to BIS at *crypt-supp8@bis.doc.gov* and to the ENC Encryption Request Coordinator at

enc@nsa.gov, as an attachment to an e-mail. Identify your e-mail with subject "Self-classification report for ERN R######", using your most recent ERN in the subject line (so as to correspond your encryption self-classification report to your most recent encryption registration ERN).

(ii) *Submissions on disks and CDs.* The self-classification report may be sent to the following addresses, in lieu of e-mail:

(A) Department of Commerce, Bureau of Industry and Security, Office of National Security and Technology Transfer Controls, 14th Street and Pennsylvania Ave., NW., Room 2705, Washington, DC 20230, Attn: Encryption Reports, and

(B) Attn: ENC Encryption Request Coordinator, 9800 Savage Road, Suite 6940, Ft. Meade, MD 20755–6000.

(3) *Information to report.* Your encryption self-classification report must include the information described in paragraph (a) of Supplement No. 8 to this part for each applicable encryption commodity, software and component exported or reexported pursuant to an encryption registration under §§ 740.17(b)(1) or 742.15(b)(1) of the EAR. If no information has changed since the previously submitted report, you must either send an e-mail stating that nothing has changed since the previous report or submit a copy of the previously submitted report.

(4) *File format requirements.* The information described in paragraph (a) of Supplement No. 8 to this part must be provided to BIS and the ENC Encryption Request Coordinator in tabular or spreadsheet form, as an electronic file in comma separated values format (.csv) adhering to the specifications set forth in paragraph (b) of Supplement No. 8 to this part.

(d) *Grandfathering.* For mass market encryption commodities, software and components described in (or otherwise meeting the specifications of) paragraph (b) of this section effective June 25, 2010, such items reviewed and classified by BIS as mass market products prior to June 25, 2010 are authorized for export and reexport under paragraph (b) of this section using the CCATS previously issued by BIS, without any encryption registration (*i.e.,* the information described in Supplement No. 5 to this part), new classification by BIS, or self-classification reporting (*i.e.,* the information described in Supplement No. 8 to this part), provided the cryptographic functionality of the item has not changed. *See* paragraph (b)(7)(i)(C) of this section regarding changes in encryption functionality following a previous classification.

■ 11. Supplement No. 5 is revised to read as follows:

Supplement No. 5 to Part 742—Encryption Registration

Certain classification requests and self-classification reports for encryption items must be supported by an encryption registration, *i.e.,* the information as described in this Supplement, submitted as a support documentation attachment to an application in accordance with the procedures described in §§ 740.17(b), 740.17(d), 742.15(b), 748.1, 748.3 and Supplement No. 2 to part 748 of the EAR.

(1) Point of Contact Information
(a) Contact Person
(b) Telephone Number
(c) Fax Number
(d) E-mail address
(e) Mailing Address

(2) Company Overview (approximately 100 words).

(3) Identify which of the following categories apply to your company's technology/families of products:
(a) Wireless
(i) 3G cellular
(ii) 4G cellular/WiMax/LTE
(iii) Short-range wireless/WLAN
(iv) Satellite
(v) Radios
(vi) Mobile communications, n.e.s.
(b) Mobile applications
(c) Computing platforms
(d) Multimedia over IP
(e) Trusted computing
(f) Network infrastructure
(g) Link layer encryption
(h) Smartcards or other identity management
(i) Computer or network forensics
(j) Software
(i) Operating systems
(ii) Applications
(k) Toolkits/ASICs/components
(l) Information security including secure storage
(m) Gaming
(n) Cryptanalytic tools
(o) "Open cryptographic interface" (or other support for user-supplied or non-standard cryptography)
(p) Other (identify any not listed above)
(q) Not Applicable (Not a producer of encryption or information technology items)

(4) Describe whether the products incorporate or use proprietary, unpublished or non-standard cryptographic functionality, including encryption algorithms or protocols that have not been adopted or approved by a duly recognized international standards body. (If unsure, please explain.)

(5) Will your company be exporting "encryption source code"?

(6) Do the products incorporate encryption components produced or furnished by non-U.S. sources or vendors? (If unsure, please explain.)

(7) With respect to your company's encryption products, are any of them manufactured outside the United States? If yes, provide manufacturing locations. (Insert "not applicable", if you are not the principal producer of encryption products.)

■ 12. Supplement No. 6 is revised to read as follows;

Supplement No. 6 to Part 742—Technical Questionnaire for Encryption Items

(a) For all encryption items:

(1) State the name(s) of each product being submitted for classification or other consideration (as a result of a request by BIS) and provide a brief non-technical description of the type of product (*e.g.,* routers, disk drives, cell phones, and chips) being submitted, and provide brochures, data sheets, technical specifications or other information that describes the item(s).

(2) Indicate whether there have been any prior classifications or registrations of the product(s), if they are applicable to the current submission. For products with minor changes in encryption functionality, you must include a cover sheet with complete reference to the previous review (Commodity Classification Automated Tracking System (CCATS) number, Encryption Registration Number (ERN), Export Control Classification Number (ECCN), authorization paragraph) along with a clear description of the changes.

(3) Describe how encryption is used in the product and the categories of encrypted data (*e.g.,* stored data, communications, management data, and internal data).

(4) For 'mass market' encryption products, describe specifically to whom and how the product is being marketed and state how this method of marketing and other relevant information (*e.g.,* cost of product and volume of sales) are described by the Cryptography Note (Note 3 to Category 5, Part 2).

(5) Is any "encryption source code" being provided (shipped or bundled) as part of this offering? If yes, is this source code publicly available source code, unchanged from the code obtained from an open source Web site, or is it proprietary "encryption source code?"

(b) For classification requests and other submissions for an encryption

commodity or software, provide the following information:

(1) Description of all the symmetric and asymmetric encryption algorithms and key lengths and how the algorithms are used, including relevant parameters, inputs and settings. Specify which encryption modes are supported (*e.g.,* cipher feedback mode or cipher block chaining mode).

(2) State the key management algorithms, including modulus sizes that are supported.

(3) For products with proprietary algorithms, include a textual description and the source code of the algorithm.

(4) Describe the pre-processing methods (*e.g.,* data compression or data interleaving) that are applied to the plaintext data prior to encryption.

(5) Describe the post-processing methods (*e.g.,* packetization, encapsulation) that are applied to the cipher text data after encryption.

(6) State all communication protocols (*e.g.,* X.25, Telnet, TCP, IEEE 802.11, IEEE 802.16, SIP * * *) and cryptographic protocols and methods (*e.g.,* SSL, TLS, SSH, IPSEC, IKE, SRTP, ECC, MD5, SHA, X.509, PKCS standards * * *) that are supported and describe how they are used.

(7) Describe the encryption-related Application Programming Interfaces (APIs) that are implemented and/or supported. Explain which interfaces are for internal (private) and/or external (public) use.

(8) Describe the cryptographic functionality that is provided by third-party hardware or software encryption components (if any). Identify the manufacturers of the hardware or software components, including specific part numbers and version information as needed to describe the product. Describe whether the encryption software components (if any) are statically or dynamically linked.

(9) For commodities or software using Java byte code, describe the techniques (including obfuscation, private access modifiers or final classes) that are used to protect against decompilation and misuse.

(10) State how the product is written to preclude user modification of the encryption algorithms, key management and key space.

(11) Describe whether the product meets any of the § 740.17(b)(2) criteria. Provide specific data for each of the parameters listed, as applicable (*e.g.,* maximum aggregate encrypted user data throughput, maximum number of concurrent encrypted channels, and operating range for wireless products).

(12) For products which incorporate an "open cryptographic interface" as defined in part 772 of the EAR, describe the cryptographic interface.

(c) For classification requests for hardware or software "encryption components" other than source code (*i.e.,* chips, toolkits, executable or linkable modules intended for use in or production of another encryption item) provide the following additional information:

(1) Reference the application for which the components are used in, if known;

(2) State if there is a general programming interface to the component;

(3) State whether the component is constrained by function; and

(4) Identify the encryption component and include the name of the manufacturer, component model number or other identifier.

(d) For classification requests for "encryption source code" provide the following information:

(1) If applicable, reference the executable (object code) product that was previously classified by BIS or included in an encryption registration to BIS;

(2) Include whether the source code has been modified, and the technical details on how the source code was modified; and

(3) Upon request, include a copy of the sections of the source code that contain the encryption algorithm, key management routines and their related calls.

■ 13. Supplement No. 8 is added to read as follows:

Supplement No. 8 to Part 742—Self-Classification Report for Encryption Items

This supplement provides certain instructions and requirements for self-classification reporting to BIS and the ENC Encryption Request Coordinator (Ft. Meade, MD) of encryption commodities, software and components exported or reexported pursuant to encryption registration under License Exception ENC (§ 740.17(b)(1) only) or "mass market" (§ 742.15(b)(1) only) provisions of the EAR. *See* § 742.15(c) of the EAR for additional instructions and requirements pertaining to this supplement, including when to report and how to report.

(a) *Information to report.* The following information is required in the file format as described in paragraph (b) of this supplement, for each encryption item subject to the requirements of this supplement and §§ 740.17(b)(1) and 742.15(b)(1) of the EAR:

(1) Name of product (50 characters or less).

(2) Model/series/part number (50 characters or less.) If necessary, enter 'NONE' or 'N/A'.

(3) Primary manufacturer (50 characters or less). Enter 'SELF' if you are the primary manufacturer of the item. If there are multiple manufacturers for the item but none is clearly primary, either enter the name of one of the manufacturers or else enter 'MULTIPLE'. If necessary, enter 'NONE' or 'N/A'.

(4) Export Control Classification Number (ECCN), selected from *one* of the following:

(i) 5A002
(ii) 5B002
(iii) 5D002
(iv) 5A992
(v) 5D992

(5) Encryption authorization type identifier, selected from *one* of the following, which denote eligibility under License Exception ENC (§ 740.17(b)(1), only) or as 'mass market' (§ 742.15(b)(1), only):

(i) ENC
(ii) MMKT

(6) Item type descriptor, selected from *one* of the following:

(i) Access point
(ii) Cellular
(iii) Computer
(iv) Computer forensics
(v) Cryptographic accelerator
(vi) Data backup and recovery
(vii) Database
(viii) Disk/drive encryption
(ix) Distributed computing
(x) E-mail communications
(xi) Fax communications
(xii) File encryption
(xiii) Firewall
(xiv) Gateway
(xv) Intrusion detection
(xvi) Key exchange
(xvii) Key management
(xviii) Key storage
(xix) Link encryption
(xx) Local area networking (LAN)
(xxi) Metropolitan area networking (MAN)
(xxii) Modem
(xxiii) Network convergence or infrastructure n.e.s.
(xxiv) Network forensics
(xxv) Network intelligence
(xxvi) Network or systems management (OAM/OAM&P)
(xxvii) Network security monitoring
(xxviii) Network vulnerability and penetration testing
(xxix) Operating system
(xxx) Optical networking
(xxxi) Radio communications
(xxxii) Router
(xxxiii) Satellite communications
(xxxiv) Short-range wireless n.e.s.

(xxxv) Storage area networking (SAN)
(xxxvi) 3G/4G/LTE/WiMAX
(xxxvii) Trusted computing
(xxxviii) Videoconferencing
(xxxix) Virtual private networking (VPN)
(xl) Voice communications n.e.s.
(xli) Voice over Internet protocol (VoIP)
(xlii) Wide area networking (WAN)
(xliii) Wireless local area networking (WLAN)
(xliv) Wireless personal area networking (WPAN)
(xlv) Commodities n.e.s.
(xlvi) Components n.e.s.
(xlvii) Software n.e.s.
(xlviii) Test equipment n.e.s.
(xlix) OTHER

(b) *File format requirements.*

(1) The information described in paragraph (a) of this supplement must be provided in tabular or spreadsheet form, as an electronic file in comma separated values format (.csv), only. No file formats other than .csv will be accepted, as your encryption self-classification report must be directly convertible to tabular or spreadsheet format, where each row (and all entries within a row) properly correspond to the appropriate encryption item.

Note to paragraph (b)(1): An encryption self-classification report data table created and stored in spreadsheet format (*e.g.,* file extension .xls, .numbers, .qpw, .wb*, .wrk, and .wks) can be converted and saved into a comma delimited file format directly from the spreadsheet program. This .csv file is then ready for submission.

(2) Each line of your encryption self-classification report (.csv file) must consist of six entries as further described in this supplement.

(3) The first line of the .csv file must consist of the following six entries (*i.e.,* match the following) without alteration or variation: PRODUCT NAME, MODEL NUMBER, MANUFACTURER, ECCN, AUTHORIZATION TYPE, ITEM TYPE.

Note to paragraph (b)(3): These first six entries (*i.e.,* first line) of a encryption self-classification report in .csv format correspond to the six column headers (*i.e.,* first row) of a spreadsheet data file.

(4) Each subsequent line of the .csv file must correspond to a single encryption item (or a distinguished series of products) as described in paragraph (c) of this supplement.

(5) Each line must consist of six entries as described in paragraph (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6) of this supplement. No entries may be left blank. Each entry must be separated by a comma (,). Certain additional instructions are as follows:

(i) Line entries (a)(1) ('PRODUCT NAME') and (a)(4) ('ECCN') must be completed with relevant information.

(ii) For entries (a)(2) ('MODEL NUMBER') and (a)(3) ('MANUFACTURER'), if these entries do not apply to your item or situation you may enter 'NONE' or 'N/A'.

(iii) For entries (a)(5) ('AUTHORIZATION TYPE'), if none of the provided choices apply to your situation, you may enter 'OTHER'.

(6) Because of .csv file format requirements, the only permitted use of a comma is as the necessary separator between line entries. You may not use a comma for any other reason in your encryption self-classification report.

(c) *Other instructions.*

(1) The information provided in accordance with this supplement and §§ 740.17(b)(1), 742.15(b)(1) and 742.15(c) of the EAR must identify product offerings as they are typically distinguished in inventory, catalogs, marketing brochures and other promotional materials.

(2) For families of products where all the information described in paragraph (a) of this supplement is identical except for the model/series/part number (entry (a)(2)), you may list and describe these products with a single line in your .csv file using an appropriate model/series/part number identifier (*e.g.,* '300' or '3xx') for entry (a)(2), provided each line in your .csv file corresponds to a single product series (or product type) within an overall product family.

(3) For example, if Company A produces, markets and sells both a '100' ('1xx') and a '300' ('3xx') series of product, in its encryption self-classification report (.csv file) Company A must list the '100' product series in one line (with entry (a)(2) completed as '100' or '1xx') and the '300' product series in another line (with entry (a)(2) completed as '300' or '3xx'), even if the other required information is common to all products in the '100' and '300' series.

PART 748—[AMENDED]

■ 14. The authority citations for part 748 continue to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 15. Section 748.1 is amended by:

■ a. Revising the first two sentences of the introductory text to paragraph (a);

■ b. Revising introductory text to paragraph (d); and

■ c. Revising paragraph (d)(1)(i), to read as follows:

§ 748.1 General provisions.

(a) *Scope.* In this part, references to the Export Administration Regulations or EAR are references to 15 CFR chapter VII, subchapter C. The provisions of this part involve requests for classifications and advisory opinions, export license applications, encryption registration, reexport license applications, and certain license exception notices subject to the EAR. * * *

* * * * *

(d) *Electronic Filing Required.* All export and reexport license applications (other than Special Comprehensive License or Special Iraq Reconstruction License applications), encryption registrations, license exception AGR notifications, and classification requests and their accompanying documents must be filed via BIS's Simplified Network Application Processing system (SNAP–R), unless BIS authorizes submission via the paper forms BIS 748–P (Multipurpose Application Form), BIS–748P–A (Item Appendix) and BIS–748P–B, (End-User Appendix). Only original paper forms may be used. Facsimiles or reproductions are not acceptable.

(1) * * *

(i) BIS has received no more than one submission (*i.e.* the total number of export license applications, reexport license applications, license exception AGR notifications, *and* classification requests) from that party in the twelve months immediately preceding its receipt of the current submission;

* * * * *

■ 16. Section 748.3 is amended by revising the section heading and paragraphs (a) and (d) to read as follows:

§ 748.3 Classification requests, advisory opinions, and encryption registrations.

* * * * *

(a) *Introduction.* You may ask BIS to provide you with the correct Export Control Classification Number down to the paragraph (or subparagraph) level, if appropriate. BIS will advise you whether or not your item is subject to the EAR and, if applicable, the appropriate ECCN. This type of request is commonly referred to as a "Classification Request." If requested, for a given end-use, end-user, and/or destination, BIS will advise you whether a license is required, or likely to be granted, for a particular transaction. Note that these responses do not bind BIS to issuing a license in the future. This type of request, along with requests for guidance regarding other interpretations of the EAR, is commonly referred to as an "Advisory Opinion." The encryption provisions in

the EAR require the submission of an encryption registration or classification request in accordance with § 740.17(d) of the EAR in order for certain items to be eligible for export and reexport under License Exception ENC (*see* § 740.17 of the EAR) or to be released from "EI" controls (*see* §§ 742.15(b)(1) and 742.15(b)(3) of the EAR).

* * * * *

(d) *Classification requests and encryption registration for encryption items.* A classification request or encryption registration associated with encryption items transferred from the U.S. Munitions List consistent with Executive Order 13026 of November 15, 1996 (3 CFR, 1996 Comp., p. 228) and pursuant to the Presidential Memorandum of that date may be required to determine eligibility under License Exception ENC or for release from "EI" controls. Refer to Supplement No. 5 to part 742 of the EAR for information that must be included in the encryption registration, which must be submitted in support of certain encryption classification requests and self-classification reports. Refer to Supplement No. 6 to part 742 of the EAR for a complete list of technical information that is required for encryption classification requests. Refer to § 742.15(c) and Supplement No. 8 to part 742 of the EAR for information that is required to be submitted in a self-classification report. Refer to § 742.15(b) of the EAR for instructions regarding mass market encryption commodities and software, including encryption registration, self-classifications and classification requests. Refer to § 740.17 of the EAR for the provisions of License Exception ENC, including encryption registration, self-classifications, classification requests and sales reporting. All classification requests, registrations, and reports submitted to BIS pursuant to §§ 740.17 and 742.15(b) of the EAR for encryption items will be reviewed by the ENC Encryption Request Coordinator, Ft. Meade, MD.

■ 17. Section 748.8 is amended by removing from paragraph (r) the phrase "Encryption review requests." and adding in its place "Encryption classification requests and encryption registrations."

■ 18. Supplement No. 1 is amended by revising the paragraph for block 5 to read as follows:

Supplement No. 1 to Part 748—BIS–748P, BIS–748P–A: Item Appendix, and BIS–748P–B: End-User Appendix; Multipurpose Application Instructions

* * * * *

Block 5: Type of Application. *Export.* If the items are located within the United States, and you wish to export those items, mark the Box labeled "Export" with an (X). *Reexport.* If the items are located outside the United States, mark the Box labeled "Reexport" with an (X). *Classification.* If you are requesting BIS to classify your item against the Commerce Control List (CCL), mark the Box labeled "Classification Request" with an (X). *Encryption Registration.* If you are requesting encryption registration under License Exception ENC (§ 740.17 of the EAR) or "mass market" encryption provisions (§ 742.15(b) of the EAR), mark the Box labeled "Encryption Registration" with an (X). *Special Comprehensive License.* If you are submitting a Special Comprehensive License application in accordance with the procedures described in part 752 of the EAR, mark the Box labeled "Special Comprehensive License" with an (X).

* * * * *

■ 19. Supplement No. 2 is amended by revising paragraph (r) to read as follows:

Supplement No. 2 to Part 748—Unique Application and Submission Requirements

* * * * *

(r) *Encryption registrations and classification requests.* Failure to follow the instructions in this paragraph may delay consideration of your encryption classification request or encryption registration.

(1) *Encryption registration.* Fill out blocks 1–4, 14, 15, 24, and 25 pursuant to the instructions in Supplement No. 1 to this Part. Leave blocks 6, 7, 8, 9–13, and 16–23 blank. In Block 5 (Type of Application), place an "X" in the box marked "Encryption Registration".

(2) *Classification Requests.* Fill out blocks 1–4, 14, 15, 22, and 25 pursuant to the instructions in Supplement No. 1 to this Part. Leave blocks 6, 7, 8, 10–13, 18–21, and 23 blank. Follow the directions specified for the blocks indicated below.

(i) In Block 5 (Type of Application), place an "X" in the box marked "classification" or "commodity classification" if submitting electronically for classification requests.

(ii) In Block 9 (Special Purpose).

(A) If submitting via SNAP–R, check the box "check here if you are submitting information about encryption required by 740.17 or 742.15 of the EAR."

(B) From the drop down menu in SNAP–R, choose:

(*1*) "License Exception ENC" if you are submitting an encryption classification request for specified License Exception ENC provisions (§§ 740.17(b)(2) or (b)(3) of the EAR);

(*2*) "Mass Market Encryption" if you are submitting an encryption classification request for certain mass market encryption items (§ 742.15(b)(3) of the EAR).

(*3*) "Encryption—other" if you are submitting an encryption classification, for another reason.

(iii) In Block 24 (Additional Information), insert your most recent Encryption Registration Number (ERN).

* * * * *

PART 772—[AMENDED]

■ 20. The authority citation for part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 21. Section 772.1 is amended by:

■ a. Removing the definition, nota bene and footnote No. 1 for "ancillary cryptography";

■ b. Removing the definition for "personalized smart card"; and

■ c. Adding in alphabetical order the definition for "non-standard cryptography", to read as follows:

§ 772.1 Definitions of Terms.

* * * * *

Non-standard cryptography. Means any implementation of "cryptography" involving the incorporation or use of proprietary or unpublished cryptographic functionality, including encryption algorithms or protocols that have not been adopted or approved by a duly recognized international standards body (*e.g.,* IEEE, IETF, ISO, ITU, ETSI, 3GPP, TIA, and GSMA) and have not otherwise been published.

* * * * *

PART 774—[AMENDED]

■ 22. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.,* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 13, 2009, 74 FR 41325 (August 14, 2009).

■ 23. In Supplement No. 1 to part 774 (the Commerce Control List), Category 5 Telecommunications and "Information Security", Part II Information Security is amended by:

■ a. Revising the Nota Bene to the Note 3 (Cryptography Note); and

■ b. Adding a new Note 4 to the beginning of Category 5 part II, to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

CATEGORY 5—TELECOMMUNICATIONS AND "INFORMATION SECURITY" Part II. "INFORMATION SECURITY"

* * * * *

N.B. to Note 3 (Cryptography Note): You must submit a classification request or encryption registration to BIS for mass market encryption commodities and software eligible for the Cryptography Note employing a key length greater than 64 bits for the symmetric algorithm (or, for commodities and software not implementing any symmetric algorithms, employing a key length greater than 768 bits for asymmetric algorithms or greater than 128 bits for elliptic curve algorithms) in accordance with the requirements of § 742.15(b) of the EAR in order to be released from the "EI" and "NS" controls of ECCN 5A002 or 5D002.

Note 4: Category 5, Part 2 does not apply to items incorporating or using "cryptography" and meeting all of the following:

a. The primary function or set of functions is not any of the following:

1. "Information security";

2. A computer, including operating systems, parts and components therefor;

3. Sending, receiving or storing information (except in support of entertainment, mass commercial broadcasts, digital rights management or medical records management); *or*

4. Networking (includes operation, administration, management and provisioning);

b. The cryptographic functionality is limited to supporting their primary function or set of functions; *and*

c. When necessary, details of the items are accessible and will be provided, upon request, to the appropriate authority in the exporter's country in order to ascertain compliance with conditions described in paragraphs a. and b. above.

* * * * *

■ 24. In Supplement No. 1 to part 774 (the Commerce Control List), Category 5 Telecommunications and "Information Security", Part 2 Information Security, ECCN 5A002 is amended by revising the Related Controls and the Items paragraph of the List of Items Controlled section, to read as follows:

5A002 "Information security" systems, equipment and components therefor, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Unit: * * *

Related Controls: (1) 5A002 does not control the commodities listed in paragraphs (a), (d), (e), (f), (g) and (i) in the Note in the items paragraph of this entry. These commodities are instead classified under ECCN 5A992, and related software and technology are classified under ECCNs 5D992 and 5E992 respectively. (2) After encryption registration to or classification by BIS, mass market encryption commodities that meet eligibility requirements are released from "EI" and "NS" controls. These commodities are classified under ECCN 5A992.c. *See* § 742.15(b) of the EAR.

Related Definitions: * * *

Items:

Note: 5A002 does not control any of the following. However, these items are instead controlled under 5A992:

(a) Smart cards and smart card 'readers/writers' as follows:

(1) A smart card or an electronically readable personal document (*e.g.,* token coin, e-passport) that meets any of the following:

a. The cryptographic capability is restricted for use in equipment or systems excluded from 5A002 by Note 4 in Category 5—Part 2 or entries (b) to (i) of this Note, and cannot be reprogrammed for any other use; *or*

b. Having all of the following:

1. It is specially designed and limited to allow protection of 'personal data' stored within;

2. Has been, or can only be, personalized for public or commercial transactions or individual identification; *and*

3. Where the cryptographic capability is not user-accessible;

Technical Note: 'Personal data' includes any data specific to a particular person or entity, such as the amount of money stored and data necessary for authentication.

(2) 'Readers/writers' specially designed or modified, and limited, for items specified by (a)(1) of this Note.

Technical Note: 'Readers/writers' include equipment that communicates with smart cards or electronically readable documents through a network.

(b) [Reserved]

N.B.: See Note 4 in Category 5—Part 2 for items previously specified in 5A002 Note (b).

(c) [Reserved]

N.B.: See Note 4 in Category 5—Part 2 for items previously specified in 5A002 Note (c).

(d) Cryptographic equipment specially designed and limited for banking use or 'money transactions';

Technical Note: The term 'money transactions' includes the collection and settlement of fares or credit functions.

(e) Portable or mobile radiotelephones for civil use (*e.g.,* for use with commercial civil cellular radio communication systems) that are not capable of transmitting encrypted data directly to another radiotelephone or equipment (other than Radio Access Network (RAN) equipment), nor of passing encrypted data through RAN equipment (*e.g.,* Radio Network Controller (RNC) or Base Station Controller (BSC));

(f) Cordless telephone equipment not capable of end-to-end encryption where the maximum effective range of unboosted cordless operation (*i.e.,* a single, unrelayed hop between terminal and home base station) is less than 400 meters according to the manufacturer's specifications;

(g) Portable or mobile radiotelephones and similar client wireless devices for civil use, that implement only published or commercial cryptographic standards (except for anti-piracy functions, which may be non-published) and also meet the provisions of paragraphs b. to d. of the Cryptography Note (Note 3 in Category 5—Part 2), that have been customized for a specific civil industry application with features that do not affect the cryptographic functionality of these original non-customized devices; *or*

(h) [Reserved]

N.B.: See Note 4 in Category 5—Part 2 for items previously specified in 5A002 Note (h).

(i) Wireless "personal area network" equipment that implement only published or commercial cryptographic standards and where the cryptographic capability is limited to a nominal operating range not exceeding 30 meters according to the manufacturer's specifications.

a. Systems, equipment, application specific "electronic assemblies", modules and integrated circuits for "information security", as follows, and components therefor specially designed for "information security":

N.B.: For the control of Global Navigation Satellite Systems (GNSS) receiving equipment containing or employing decryption, *see* ECCN 7A005.

a.1. Designed or modified to use "cryptography" employing digital techniques performing any cryptographic function other than authentication or digital signature and having any of the following:

Technical Notes: 1. Authentication and digital signature functions include their associated key management function.

2. Authentication includes all aspects of access control where there is no encryption of files or text except as directly related to the protection of passwords, Personal Identification Numbers (PINs) or similar data to prevent unauthorized access.

3. "Cryptography" does not include "fixed" data compression or coding techniques.

Note: 5A002.a.1 includes equipment designed or modified to use "cryptography" employing analog principles when implemented with digital techniques.

a.1.a. A "symmetric algorithm" employing a key length in excess of 56-bits; *or*

a.1.b. An "asymmetric algorithm" where the security of the algorithm is based on any of the following:

a.1.b.1. Factorization of integers in excess of 512 bits (*e.g.,* RSA);

a.1.b.2. Computation of discrete logarithms in a multiplicative group of a finite field of size greater than 512 bits (*e.g.,* Diffie-Hellman over Z/pZ); *or*

a.1.b.3. Discrete logarithms in a group other than mentioned in 5A002.a.1.b.2 in excess of 112 bits (*e.g.,* Diffie-Hellman over an elliptic curve);

a.2. Designed or modified to perform cryptanalytic functions;

a.3. [Reserved]

a.4. Specially designed or modified to reduce the compromising emanations of information-bearing signals beyond what is necessary for health, safety or electromagnetic interference standards;

a.5. Designed or modified to use cryptographic techniques to generate the spreading code for "spread spectrum" systems, not controlled in 5A002.a.6., including the hopping code for "frequency hopping" systems;

a.6. Designed or modified to use cryptographic techniques to generate channelizing codes, scrambling codes or network identification codes, for systems using ultra-wideband modulation techniques and having any of the following:

a.6.a. A bandwidth exceeding 500 MHz; *or*

a.6.b. A "fractional bandwidth" of 20% or more;

a.7. Non-cryptographic information and communications technology (ICT) security systems and devices evaluated to an assurance level exceeding class EAL–6 (evaluation assurance level) of the Common Criteria (CC) or equivalent;

a.8. Communications cable systems designed or modified using mechanical, electrical or electronic means to detect surreptitious intrusion;

a.9. Designed or modified to use 'quantum cryptography.'

Technical Notes: 1. 'Quantum cryptography' A family of techniques for the establishment of a shared key for "cryptography" by measuring the quantum-mechanical properties of a physical system (including those physical properties explicitly governed by quantum optics, quantum field theory, or quantum electrodynamics).

2. 'Quantum cryptography' is also known as Quantum Key Distribution (QKD).

■ 25. In Supplement No. 1 to part 774 (the Commerce Control List), Category 5 Telecommunications and "Information Security", Part 2 Information Security, ECCN 5A992 is amended by revising paragraph c. in the items paragraph of the List of Items Controlled section, to read as follows:

5A992 Equipment not controlled by 5A002.

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

c. Commodities that BIS has received an encryption registration or that have been classified as mass market encryption commodities in accordance with § 742.15(b) of the EAR.

* * * * *

■ 26. In Supplement No. 1 to part 774 (the Commerce Control List), Category 5 Telecommunications and "Information Security", Part 2 "Information Security", ECCN 5D002 is amended by revising the Related Controls paragraph in the List of Items Controlled section, to read as follows:

"**5D002 "Software" as follows (see List of Items Controlled).**

* * * * *

List of Items Controlled

* * * * *

Related Controls: (1) This entry does not control "software" "required" for the "use" of equipment excluded from control under the Related Controls paragraph or the Technical Notes in ECCN 5A002 or "software" providing any of the functions of equipment excluded from control under ECCN 5A002. This software is classified as ECCN 5D992. (2) After an encryption registration has been submitted to BIS or classification by BIS, mass market encryption software that meet eligibility requirements are released from "EI" and "NS" controls. This software is classified under ECCN 5D992.c. *See* § 742.15(b) of the EAR.

* * * * *

■ 27. In Supplement No. 1 to part 774 (the Commerce Control List), Category 5 Telecommunications and "Information Security", Part 2 Information Security, ECCN 5D992 is amended by revising paragraph c. of the Items paragraph of the List of Items Controlled section, to read as follows:

5D992 "Information Security" "software" not controlled by 5D002.

* * * * *

List of Items Controlled

* * * * *

Items:

* * * * *

c. "Software" that BIS has received an encryption registration or that have been classified as mass market encryption software in accordance with § 742.15(b) of the EAR.

* * * * *

■ 28. Supplement No. 3 is revised to read as follows:

Supplement No. 3 to Part 774—Statements of Understanding

(a) Statement of Understanding—medical equipment. Commodities that are "specially designed for medical end-use" that "incorporate" commodities or software on the Commerce Control List (Supplement No. 1 to part 774 of the EAR) that do not have a reason for control of Nuclear Nonproliferation (NP), Missile Technology (MT), or Chemical & Biological Weapons (CB) are designated by the number EAR99 (*i.e.,* are not elsewhere specified on the Commerce Control List).

Notes to paragraph a: (1) "Specially designed for medical end-use" means designed for medical treatment or the practice of medicine (does not include medical research).

(2) Commodities or software are considered "incorporated" if the commodity or software is: Essential to the functioning of the medical equipment; customarily included in the sale of the medical equipment; and exported or reexported with the medical equipment.

(3) Except for such software that is made publicly available consistent with § 734.3(b)(3) of the EAR, commodities and software "specially designed for medical end-use" remain subject to the EAR.

(4) *See also* § 770.2(b) interpretation 2, for other types of equipment that incorporate items on the Commerce Control List that are subject to the EAR.

(5) For computers used with medical equipment, *see also* ECCN 4A003 note 2 regarding the "principal element" rule.

(6) For commodities and software specially designed for medical end-use that incorporate an encryption or other "information security" item subject to the EAR, *see also* Note 1 to Category 5, Part II of the Commerce Control List.

(b) *Statement of Understanding—Source Code.* For the purpose of national security controlled items, "source code" items are controlled either by "software" or by "software" and "technology" controls, except when such "source code" items are explicitly decontrolled.

(c) *Category 5—Part 2—Note 4 Statement of Understanding.* All items previously described by Notes (b), (c) and (h) to 5A002 are now described by Note 4 to Category 5—Part 2. Note (h) to 5A002 prior to June 25, 2010 stated that the following was not controlled by 5A002:

Equipment specially designed for the servicing of portable or mobile radiotelephones and similar client wireless devices that meet all the

provisions of the Cryptography Note (Note 3 in Category 5, Part 2), where the servicing equipment meets all of the following:

(1) The cryptographic functionality of the servicing equipment cannot easily be changed by the user of the equipment;

(2) The servicing equipment is designed for installation without further substantial support by the supplier; *and*

(3) The servicing equipment cannot change the cryptographic functionality of the device being serviced.

Dated: June 17, 2010.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2010–15072 Filed 6–24–10; 8:45 am]

BILLING CODE 3510–33–P

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S. 3473/P.L. 111–191
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